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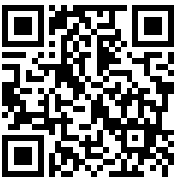

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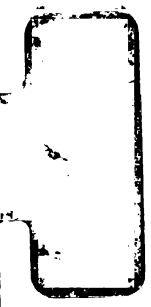

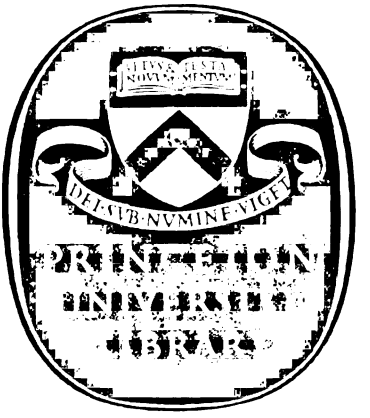

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COBBETT'S

Parliamentary History

OF

ENGLAND.

VOL. VI.

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William COBBETT'S

Parliamentary History

OF

ENGLAND.

FROM THE NORMAN CONQUEST, IN 1066,

TO

THE YEAR 1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED,

"COBBETT'S PARLIAMENTARY DEBATES."

VOL. VI.

COMPRISING THE PERIOD

FROM THE ACCESSION OF QUEEN ANNE IN 1702,

TO THE ACCESSION OF KING GEORGE THE FIRST IN 1714.

LONDON:

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THE Volume now presented to the Public comprises the period from the Accession of Queen Anne in the Year 1702, to the Accession of King George the First in the Year 1714. For this period, the Proceedings and Debates in both Houses have been, principally, collected from the following Works: 1. The Journals of the House of Lords; 2. The Journals of the House of Commons; 3. Timberland's History and Proceedings of the House of Lords; 4. Chandler's History and Proceedings of the House of Commons; 5. Boyer's Annals of Queen Anne's Reign; 6. Boyer's History of the Life and Reign of Queen Anne; 7. The Political State of Great Britain; 8. Burnet's History of His Own Times; and, 9. The Continuation of Rapin's History of England, published under the name of Tindal, but principally written by Dr. Birch.

Besides the above Works, recourse has been had to the Histories of Oldmixon and Somerville; to the political Writings of Swift, Steele, and Addison; the Works of Lord Orford; the Memoirs of the Life and Administration of Sir Robert Walpole, by Mr. Coxe; and other books illustrative of the Parliamentary History of the times.

In the Appendix will be found a copious Account of the Proceedings and Debates in the Parliament of Scotland, from the Meeting of the New Parliament in May 1703, to the Union with England in the Year 1707.

April 12, 1810.

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Archbishop of Canterbury.

Thomas Tenison, translated from Lincoln.

Lord High Chancellors.

1702. Sir Nathan Wright, knight.
1705. William Cowper, esq. Lord Keeper, created Lord Cowper in 1706.
1707. ..... declared Lord Chancellor, May 4. Resigned Sept. 25, 1710.
Sir Simon Harcourt, knt. Lord Keeper, Oct. 9. Created Lord Harcourt Sept. 3, 1712. Made Lord Chancellor, April 7, 1713.

Speakers of the House of Commons.

1702. Robert Harley, esq. New Radnor.
1705. John Smith, esq. Andover.
1708. Sir Richard Onslow, bart. Surrey.
1710. William Bromley, esq. Oxford University.
1713. Sir Thomas Hanmer, bart. Suffolk.

Master of the Rolls.

1692. Jan. 13. Sir John Trevor, knt.

Attorneys General.

1701. July 5. Edward Northey, esq.
1707. Apr. 25. Sir Simon Harcourt, knight. afterwards Lord Harcourt.
1708. Oct. 21. Sir James Montagu, knt.
1710. Sept. 18. Sir Simon Harcourt, again.
Oct. 19. Sir Edward Northey, knight, again.

Solicitors' General.

1702. June 1. Simon Harcourt, esq.
1707. Apr. 25. Sir James Montagu, knt.
1708. Oct. 21. Robert Eyre, esq.
1710. May 13. Sir Robert Raymond, knt.

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No. II.—THE ACT OF UNION BETWEEN ENGLAND AND SCOTLAND.

No. III.—LIST OF PUBLIC ACTS PASSED DURING THE REIGN OF QUEEN ANNE.

No. IV.—The Lord Oxford's Letter to the Queen: With a brief Account of Public Affairs, since August 8, 1710, to this present 8th of June, 1714. To which is added, the State of Affairs abroad, as they relate to this Kingdom; with some humble Proposals for securing the future Tranquillity of her Majesty's Reign, and the safety of her Kingdoms.

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COBBETT'S

Parliamentary History.

1 ANNE, A. D. 1702.

ACCESSION OF QUEEN ANNE.] March 8, 1702. Upon the death of King William, which happened this day, the crown, pursuant to the Act of Succession, devolved to the princess Anne of Denmark, daughter of king James the Second by the lady Anne Hyde, daughter of the earl of Clarendon.*

* "She was entered on the thirty-eighth year of her age, and from her infancy had imbibed strong prejudices against the Whigs. She had been taught to look upon them all, not only as republicans, but as enemies to the church of England. This aversion to the whole party had been confirmed by the usage she had met with from her sister and king William, which was now to be charged to the account of the Whigs. And prince George, who had also been ill-treated (as he thought) in the late reign, threw into the scale his resentment. On the other hand, the Tories had the advantage, not only of the queen's early prepossession in their favour, but of their having assisted her in the affair of her revenue. It was indeed evident, that they had done this, more in opposition to the king, than from any real respect to her. But still they had served her; and, the winter before the king died, they had, in prospect of his death, paid her more than usual attendance. Hence it is, that, as soon as she was seated in the throne, the Tories (whom she usually called by the agreeable name of the Church party) became the distinguished objects of her favour, as will presently be seen." Tindal.

"It is certain that all the late king's hearty friends were under great apprehensions of ill consequences from queen Anne's accession to the throne, on account of her known attachment to that interest, which, under the disguise of Church, had imposed on many minds, otherwise well intentioned. And it was a most grateful surprize to them, when after a continual gathering of clouds over their heads in the beginning of her reign, a glorious sunshine broke forth and warmed them, and cheered them for seven years together." Oldmixon.

The Queen's Speech to the Privy Council.] On the evening of the same day the Privy Council came in a body to wait upon the new queen, who received them with the following Speech:

"My Lords;

"I am extremely sensible of the general misfortune to these kingdoms, in the unspeakable loss of the king, and the great weight and burden it brings in particular on myself; which nothing could encourage me to undergo, but the great concern I have for the preservation of our religion, and laws and liberties of my country. All these, being as dear to me, as they can be to any person whatsoever, you may depend upon it, that no pains nor diligence shall ever be wanting on my part, to preserve and support them; to maintain the succession in the Protestant line, and the government in church and state as it is by law established. I think it proper, upon this occasion of my first speaking to you, to declare my own opinion of the importance of carrying on all the preparations we are making to oppose the great power of France; and I shall lose no time in giving our allies all assurances, that nothing shall be wanting on my part, to pursue the true interest of England, together with theirs, for the support of the common cause. In order to these ends, I shall always be ready to ask the advice of my council, and of both houses of parliament, and desirous to countenance and employ all those, who shall heartily concur and join with me, in supporting and maintaining the present establishment and constitution against all enemies and opposers whatsoever."*

After this declaration, she caused all the lords, and others of the late king's privy-coun-

* "The queen pronounced this, as she did all her other speeches, with great weight and authority, and with a softness of voice, and sweetness in the pronunciation, that added much life to all she spoke; and these, her first expressions, were heard with great and just acknowledgments." Burnet.

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cil, to take the oaths to her in the same quality, and ordered a proclamation to be published immediately, signifying her pleasure, that all persons being in office of authority or government, at the decease of the late king, should so continue till further directions. As, by the act made five years before, the parliament, notwithstanding the king's death, was now continued to sit; both houses met the same day, and unanimously voted to address the queen to condole with her on this sad occasion, and to congratulate her happy accession to the throne. Then the lords in a conference acquainted the commons, that orders were given for proclaiming her majesty that afternoon; which was accordingly done with the usual solemnity, and the loud acclamations of the people: Though it is remarkable, that this day afforded a visible mixture of sorrow and joy; many being apprehensive, that the death of king William, at so critical a juncture, might be attended with consequences fatal to Europe in general, and to the Protestant succession of these kingdoms in particular.

The Lords Address to the Queen.] March 9. The Lords, pursuant to vote, attended the Queen with the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, though deeply sensible of the unspeakable loss this nation hath sustained by the decease of his late majesty, of glorious memory, do, at the same time, most heartily congratulate your majesty's happy accession to the throne, and with all loyalty and duty assure your majesty of our zealous and firm resolutions to support your undoubted right and title, and the succession of the Protestant line, as by law established, against all your enemies whatsoever; being sensible our great loss is no otherwise to be repaired, to ourselves or our confederates, but by a most sincere and vigorous adherence to your majesty and your allies, in the prosecution of those measures already entered into, to reduce the exorbitant power of France: And we will ever make it appear to your majesty and the world, that our zeal and affection for your majesty's service, and the care we have of the public safety, engage us to exert ourselves with the utmost vigour and union, for obtaining, under your majesty's reign, such a balance of power and interest, as may effectually secure the liberties of Europe—And we further humbly desire, that, for the encouragement of your majesty's allies, no time may be lost in communicating to them your majesty's resolutions of adhering firmly to the alliances already made: And we shall never be wanting, to the utmost of our power, to enable your majesty to maintain the same."

The Queen's Answer.] Her majesty returned this Answer:

"My lords; It is with great satisfaction that I receive the assurances you give me in your Address. My endeavours shall always be very sincere, to promote the true interest of England, and support our common cause."

The Commons' Address.] The same day, in the evening, the Commons attended her majesty with the following Address:

"Most gracious sovereign; We, your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, having a deep and true sense of the great loss the nation has sustained by the death of our late sovereign lord king William the third, of glorious memory, who, under God, was our deliverer from popery and slavery, humbly crave leave to condole with your majesty, and express our sorrow, upon this sad occasion.—Your majesty's accession to the throne, which we most heartily congratulate, and your known zeal for our religion, and the government, as by law established, gives us a certain prospect of future happiness; moderates our grief; and engages us unanimously to assure your majesty, That we will, to the utmost, assist and support your majesty on that throne where God has placed you, against the pretended prince of Wales, and all your enemies: And, since nothing can conduce more to the honour and safety of your majesty, and your kingdoms, than maintaining inviolable such alliances as have been made, or that your majesty shall think fit to make, with the Emperor, the States-General of the United Provinces, and other potentates, for preserving the liberties of Europe, and reducing the exorbitant power of France; we do assure your majesty, That we are firmly resolved, to the utmost of our power, to enable your majesty to prosecute that glorious design: And, that all your subjects may rest in a full assurance of happiness under your majesty's reign, we will maintain the succession of the crown in the Protestant line, according to the limitation in the several acts of settlement; and effectually provide for, and make good, the public credit of the nation."

The Queen's Answer.] The Queen returned this Answer:

"Gentlemen; I return you my hearty thanks for the kind assurances you give me in this Address: They cannot be any way more agreeably confirmed to me, than by your giving dispatch to all your preparations for the public service, and the support of our allies."*

The Queen's first Speech to both Houses.]

* "This good harmony between the queen and her parliament, together with the resolution of the Commons about public credit, immediately raised the national funds above their former value, which upon king William's death had fallen above fifteen per cent. The queen not only answered the addresses of both houses in this favourable manner, but moreover she received all that came to her so graciously, that they went from her highly satisfied with her goodness and her obliging deportment; for she hearkened with attention to every thing that was said to her." Tindal.

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March 11. The queen went to the house of Peers with the usual solemnity, and addressed herself to both Houses in the following Speech:

" My Lords and Gentlemen;

" I cannot too much lament my own unhappiness, in succeeding to the crown so immediately after the loss of a king, who was the great support, not only of these kingdoms, but of all Europe; and I am extremely sensible of the weight and difficulty it brings upon me.—But the true concern I have for our religion, for the laws and liberties of England, for the maintaining the succession to the crown in the Protestant line, and the government in church and state as by law established, encourages me in this great undertaking; which, I promise myself, will be successful, by the blessing of God, and the continuance of that fidelity and affection of which you have given me so full assurance.—The present conjuncture of affairs requires the greatest application and dispatch; and I am very glad to find, in your several addresses, so unanimous a concurrence in the same opinion with me, that too much cannot be done for the encouragement of our allies, to reduce the exorbitant power of France.—I cannot but think it very necessary, upon this occasion, to desire you to consider of proper methods towards attaining of an Union between England and Scotland; which has been so lately recommended to you as a matter that very nearly concerns the peace and security of both kingdoms.—Gentlemen of the house of commons; I need not put you in mind, that the revenue for defraying the expences of the civil government is expired: I rely entirely upon your affections, for the supplying it in such manner as shall be most suitable for the honour and dignity of the crown.—My lords and gentlemen; It shall be my constant endeavour, to make you the best return for that duty and affection you have expressed to me, by a careful and diligent administration for the good of all my subjects: And, as I know my own heart to be entirely English, I can very sincerely assure you, there is not any thing you can expect, or desire from me, which I shall not be ready to do for the happiness and prosperity of England; and you shall always find me a strict and religious observer of my word*."

March 12. The Commons having, by such members of their house as were of the privy-council, returned their humble thanks to the queen for her gracious speech, she gave the message a very gracious reception, and was pleased to command sir Charles Hedges to assure them, "That nothing should be wanting, that might contribute to their safety and welfare."

The Lords' Address upon the Queen's Speech.] March 13. The House of Lords attended her Majesty with the following Address:

" We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, cannot sufficiently express the great satisfaction we receive from your majesty's most gracious speech; trusting in God it will have the same effect abroad as at home, equally reviving the hearts of your allies and subjects, uniting all people, and encouraging their utmost endeavours in the common cause.—The sincere concern your majesty hath shewed for our religion, the government in church and state as by law established, and the succession to the crown in the Protestant line; the hazards you have exposed yourself to, in concert with his late glorious majesty, for maintaining our laws and liberties, as well as your most gracious assurance at this time, give your subjects such a confidence in your promises, such a dutiful affection to your person, such a zeal for your service, as will oblige them to make the utmost efforts to support your majesty under the weight and difficulties of the present conjuncture.—The concern your majesty expresses for your allies is a further obligation laid upon us; who are sensible their preservation is necessary to our own, and who are as desirous as ever to support the character of the crown of England, in enabling your majesty to maintain the balance of Eu-

* " There were two passages in this speech, that were thought not so well considered: She assured them, her heart was 'entirely English:' This was looked on, as a reflection on the late king: she also added, that they might 'depend 'on her word;' both these expressions had been in her father's first speech, how little soever they were afterwards minded by him." Burnet.

" It must be confest, that though the queen's falling in so chearfully with her royal predecessor's measures, as she expressed herself in her speeches to the privy-council and parliament, helped very much to support all good Britons under so great a loss and affliction, as the king's death was to them; yet her majesty's saying that to the two houses of parliament, 'her heart was entirely' English, seeming to be a reflection on the late king for being a foreigner, it occasioned much speculation and discourse, and not a little discontent. Every one knew that her majesty's speeches were drawn up by those of her counsellors in whom she most confided; and it was matter of concern that any of them should presume so much on the influence they had over her, as to put words in her royal mouth so unworthy of king William's glorious memory, and so inconsistent with what she was pleased to say in her letter to the parliament of Scotland two months after; 'It pleased God to make the late king the great instrument of delivering our people from Popery and Arbitrary Power, and of restoring to them their ancient rights and privileges; and through the same divine grace we shall in the whole course of our reign aim at nothing more than the preserving to them these advantages.'" Oldmixon.

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rope.—We cannot make suitable returns to your majesty, for your most gracious promises of a careful and diligent administration for the public good; which we think ourselves sufficiently secured of, by so solemn an engagement under your sacred word.—Your majesty hath been pleased to assure us of all we could wish, and recommend to us what we ought to desire; and, we doubt not, your pious intentions will procure a blessing from heaven: And your majesty may be assured, that resolutions so becoming a queen of England cannot but make the deepest impression upon all hearts that are true to the interest of their country."

The Queen's Answer.] To this, her majesty was pleased to answer:

"My Lords; It is a great satisfaction to me, to find, that what I have said has your concurrence and approbation; and I am willing to repeat to you, upon this occasion, That I shall always hold very exactly to the assurances I have given you." *

* "The Address of condolence and congratulation of the bishops and clergy of London having the same day been presented to the queen by the archbishop of Canterbury, the bishop of London being indisposed, her majesty made answer, That she was very well pleased with the marks of their good-will, and they might be sure she should always have a particular care of the church. The Dissenters, in and about London, presented also an address, which was the more remarkable, because all the non-conformists, except the Quakers, joined in it. The queen, in her answer, assured them of her protection, and that she should do nothing to forfeit her interest in their affections. Which words were afterwards remembered, when the royal assent was given to the Schism and Occasional bills. The city of London, and all the counties, cities, and even the subaltern bodies of cities, came up with addresses. In these, a very great diversity of stile was observed; some mentioned the late king in terms full of respect and gratitude; others named him very coldly: some took no notice of him, nor of his death, and simply congratulated her accession to the crown; and some insinuated reflections on his memory, as if the queen had been ill used by him. Her majesty received all civilly; to most she said nothing, to others she expressed herself in general words, and some things were given out in her name, which she disowned.

"The consternation at the Hague for king William's death was exceedingly great. Upon the first news of it, the States-general and those of Holland assembled immediately: they looked upon one another as men amazed: they embraced each other, and promised to hold together, and adhere to the interests of their country: they sat up most part of the night, and sent out all orders that were necessary, upon so extraordinary an emergency, and dispatched letters to the provinces and to the cities of Holland, to acquaint them with the news, and to exhort to union, and a perseverance in the alliances and concerted designs. The Imperial, Prussian, and Danish ministers sent also expresses to their respective courts on this occasion, and went all to the English envoy's. Count Goez encouraged them, by assuring them, this accident would not cause the least alteration in the resolutions of the emperor, and that he had just received the important news from Vienna that the king of the Romans would in person make the campaign on the Rhine. As the express from England had brought the queen's speech to her privy-council, it was agreed by these ministers, that it should be translated into French and Dutch, in order to revive the drooping spirits of the people, which had a very good effect. The next day, the States-general met early in the morning and again in the evening. The States of Holland being likewise assembled, pensionary Fagel made them a moving, but withal an encouraging speech. He imparted to them a letter he had received from the earl of Marlborough in the queen's name, with very express assurances of union, assistance, and vigour. Upon this, the states of Holland went in a body to the assembly of the States-general, where, having condoled their irreparable loss, they represented, 'That, in this dangerous conjuncture, nothing could prove more effectual for their preservation, than a perfect unity, mutual confidence, and a vigorous resolution for the defence of their country, and by adhering firmly to those measures already entered into, and such as should be judged farther expedient for the good of the common cause; declaring withal, that they were ready to perform their part, and rather to sacrifice all their blood and treasure, than to see their State, their Liberty, and their Religion destroyed.' This representation was highly applauded by the States-general, who returned thanks to the States of Holland for their zealous resolutions in that perilous conjuncture; and assured them of their hearty concurrence for the safety and welfare of the State, and strenuously carrying on the common cause; and they ordered letters to be sent to the other provinces, to invite them to give the same assurances. The city of Amsterdam, to signalize themselves more particularly, on that occasion signified to the States-general, that they would not only consent to such resolutions, as should be thought necessary at that time, but would advance money to those provinces, which could not so readily furnish out their quotas that should be granted. The States-general, soon after, published their resolutions at large in print, to the same effect, and concluded, 'That they were resolved religiously to maintain their treaties and alliances, entered into with their confederates; stedfastly to pursue the contents thereof; vigorously and cordially to put them in execution; to persevere in the measures al-

The Civil List settled.] The House of Commons pursued the affairs recommended to their

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consideration from the throne, The queen, in her first speech, having put them in mind of the expiration of the civil list revenue, a bill passed both houses, to continue to her for life the same revenue that was payable to the late king, though many seemed to apprehend, that so great a revenue might be applied to uses, not so profitable to the public, in a reign that was to be frugal, and probably would not be subject to great accidents.

ready taken, and agree to such other measures as should be thought convenient; and that notice should be given of this their true meaning and intention to all their allies and confederates."

"For a farther encouragement to the States, the next post brought a letter, in French, from queen Anne, which she had writ pursuant to her declaration in council, and the lords desire in their first address. The letter was sent to Mr. Stanhope, with new credentials as envoy extraordinary from England, both which, as he was then ill of the gout, he immediately delivered by the hands of his secretary, to the president of the week.

"These assurances from the queen, and the good disposition of both houses of parliament, expressed in their addresses (which were also come over) were a great comfort to the States in the loss of the stadtholder; but what revived them most, was the arrival of the earl of Marlborough, with the character of ambassador extraordinary and plenipotentiary. The queen, five days after her accession, had made him and the duke of Bedford knights of the Garter; and the next day, having declared the earl captain-general of her forces both at home and abroad, she sent him into Holland, to give the States full assurances of her maintaining the alliances, that had been concluded by the late king, and of doing every thing that the common concerns of Europe required. This the ambassador delivered, in a speech to the States, which was printed and dispersed for the satisfaction of the people. Dyckvelt, the president of the week, answered this speech in the name of the States. Expressing their great affliction for the death of the late king; their congratulation of her majesty's succession to the throne, their hearty thanks for the assurance of her friendship, and their own resolution readily to concur with her majesty in a vigorous persecution of the common interest. To which he added, "That his excellency's person would be highly acceptable to them, not only for the queen's choice of him, and for the sake of king William, who first invested him with that character, but for his own merit." It was observed that, when the president mentioned the late king, the tears ran down his cheeks.

"The news of king William's death was received in France, with such joy, that the court and people could hardly contain themselves, without breaking out into the most furious transports; as was done at Rome to such a degree of extravagance, that cardinal Grimani, the imperial minister, complained of it to the pope, as an affront to his master, the emperor, who was the deceased king's friend, ally, and confederate. But little notice was taken of it. They were so afraid in France that the news would not prove true, that the person who brought it first to Calais, was seized by the governor's order, and kept in prison till it was confirmed. However, the French king finding that the death of king William would not have that effect, either in England or Holland, as he had promised himself, immediately sent instructions to the sieur de Barré (who was left at the Hague by count d'Avaux as secretary to the embassy) to renew negociations with the States, in hopes of separating them from their allies.

"The earl of Marlborough's stay in Holland, though it was but a few days, was to very good purpose. He had confirmed the Dutch in their former resolutions, and settled several important affairs with the States, particularly for the opening the campaign, for the siege of Keyserswaert (which by his advice was first to be undertaken) and the attack of Cadiz. He had agreed with the States and the Imperial minister that war should be proclaimed against France the same day at Vienna, London, and the Hague. During his stay, the States had entered into such a confidence with the earl of Marlborough, that he departed as well satisfied with them, as they were with him. He embarked on the 3d of April, and on the 5th arrived in England." Tindal.

The Queen's Speech on passing the Revenue Bill and the Bill for taking the Public Accounts.] March 30. Her Majesty came to the House of Peers, and made the following Speech:

"My lords and gentlemen; I am very well pleased to have given my assent to the Act for taking the Public Accompts:* nothing is more reasonable than to give the kingdom the satisfaction of having those great sums accounted

* "The queen passed a bill for receiving and examining the Public Accounts; and in her speech, she expressed a particular approbation of that bill: a commission to the same effect had been kept up, for six or seven years, during the former reign, but it had been let fall for some years; since the commissioners had never been able to make any discovery whatsoever, and so had put the public to a considerable charge, without reaping any sort of fruit from it. Whether this flowed from the weakness or corruption of the commissioners, or from the integrity or cunning of those, who dealt in the public money, cannot be determined. The party that had opposed the late king, had made this the chief subject of their complaints all the nation over, that the public was robbed, and that private men lived high, and yet raised large estates out of the public treasure: this had a great effect over England; for all people naturally hearken to complaints of this kind, and very easily believe them: it was also said, to excuse the fruitlessness of the former com-

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for, which were raised to carry on the late war; especially when it is necessary, for our own safety, and the support of our allies, to continue great taxes.—Gentlemen of the house of commons; I return you my kind and hearty thanks, for continuing to me, for my life, the same revenue you had granted to the king: I will take great care it shall be managed to the best advantage; and, while my subjects remain under the burthen of such great taxes, I will straiten myself in my own expences, rather than not contribute all I can to their ease and relief, with a just regard to the support of the honour and dignity of the crown. It is probable the revenue may fall very short of what it has formerly produced: however I will give directions that 100,000*l.** be applied to the public service, in this year, out of the revenue you have so unanimously given me.—My lords and gentlemen; The present posture of affairs abroad, as well as the season of the year, obliges me to put you in mind of giving all possible dispatch to the public business."

The Lords' Address thereon.] March 31. The House of Lords presented the following Address to her majesty:

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, do humbly beg leave to assure your majesty, of the unspeakable satisfaction we received, in the tender care of your subjects, which your majesty was pleased to express in your most gracious speech; especially in desiring to have those great sums accounted for, which were raised to carry on the late war.—Your unparalleled goodness, in straitening yourself for the ease of your people, must needs make the deepest impression of gratitude in the hearts of all your subjects, and engage their utmost and most faithful endeavours for your majesty's service.—Your majesty may be assured, that we shall apply ourselves with the utmost diligence to the dispatch of what remains necessary to be done, for the support of your majesty and your government."

The Queen's Answer.] To this her majesty answered:

"My lords; I give you many thanks for your address. I need not tell you, that your approbation of what I do will always be a great satisfaction to me."

The Commons' Address.] The Address of the Commons was as follows:

"Most gracious sovereign;

"We your majesty's most loyal and dutiful subjects, the Commons of England, in parliament assembled, beg leave unanimously to return our most humble and hearty thanks for your majesty's most gracious speech from the throne; and particularly for your majesty's unparalleled grace and goodness, in declaring, that your majesty, out of your own revenue, will contribute so largely to the ease and relief of your subjects, at a time when your majesty thinks it probable that the revenue may fall very short of what it has formerly produced; and when your majesty's expences must, of necessity, be greater than ordinary.—Nothing can more encourage your people to contribute, with alacrity, to the public occasions, than to have before them so great and glorious an example, from your majesty, of zeal and affection for the common good; and that your majesty is so well pleased to have given the kingdom the satisfaction of having those great sums accounted for, which were raised to carry on the late war.—We cannot omit, upon this occasion, to repeat our firm resolutions to maintain and defend your majesty, and your government, against the pretended prince of Wales, and all other your majesty's enemies whatsoever.—May God prolong your majesty's auspicious reign over us, and bless these kingdoms with royal issue of your majesty to inherit the crowns of your ancestors."

missions, that no discoveries could be made, under a ministry, that would surely favour their under-workmen, though they were known to be guilty. One visible cause of men's raising great estates, who were concerned in the administration, was this, that for some years the parliament laid the taxes upon very remote funds, so that, besides the distance of the term of payment, for which interest was allowed, the danger the government itself seemed to be often in (upon the continuance of which the continuance and assignment of these funds was grounded) made that some tallies were sold at a great discount, even of the one half, to those who would employ their money that way, by which great advantages were made. The gain that was made, by robbing the coin, in which many goldsmiths were believed to be deeply concerned, contributed not a little to the raising those vast estates, to which some had grown, as suddenly as unaccountably. All these complaints were easily raised, and long kept up, on design to cast the heavier load on the former ministry: this made that ministry, who were sensible of the mischief this clamour did them, and of their own innocence, promote the bill with much zeal, and put the strongest clauses in it, that could be contrived to make it effectual. The commissioners named in the bill, were the hottest men in the house, who had raised as well as kept up the clamour, with the greatest earnestness. One clause put in the act, was not very acceptable to the commissioners; for they were rendered incapable of all employments, during the commission: the act carried a retrospect quite back to the Revolution: it was given out, that great discoveries would be made by them, and the art and industry with which this was spread over England, had a great effect in the elections to the succeeding parliament." Burnet.

* "This was received with great applause, and particular notice was taken of it, in all the Addresses that came up afterwards." Burnet.

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The Queen's Answer.] The queen answered:

"Gentlemen; It is a great satisfaction to me to find you are so well pleased with what I have said. I shall be glad, upon all occasions, to let you see, I desire nothing so much as the ease and happiness of my people."

A Ministry formed.] "The queen," says Tindal, "being settled in the throne, began to think of forming her Ministry, wherein she plainly discovered her partiality to the Tories, in favour of whom she had been all along prepossessed, as thinking them better affected to the Church than the Whigs. In vain did the countess of Marlborough, who was appointed groom of the stole, and keeper of the privy purse,* use her endeavours to moderate her zeal for the Tories, and engage her to a better opinion of the opposite party. Her influence over the queen, how great soever in other respects, was in this case but of little effect; and the lords Marlborough and Godolphin themselves would not have had so great a share of her favour and confidence, if they had not been reckoned in the number of the Tories. The truth is, both these lords had been educated in the persuasion, that the Tory party were the best friends to the constitution both of church and state; nor were they perfectly undeceived, but by experience.

"Dr. John Sharp, archbishop of York, was pitched upon by the queen herself to preach the sermon at her coronation, (which was performed on St. George's day, April 23, with the usual magnificence) and to be her chief counsellor in church matters. The late king had sent a message to the earl of Rochester, some weeks before his death, to let him know, that he had put an end to his commission of lord lieutenant of Ireland; but that was not executed in form; so the commission still subsisted in his person, and he was now declared lord lieutenant of Ireland. The lord Godolphin was, on the 6th of May, declared lord high-treasurer. This was very uneasy to himself, for he resisted the motion long; but the earl of Marlborough, whose eldest daughter was married to that lord's eldest son, pressed it in so positive a manner, that he said he could not go beyond sea to command the armies, unless the treasury was put into his hands, for then he was sure, that remittances would be punctually made to him. The earl was declared captain-general, and the prince of Denmark, on the 17th of April, had the title of generalissimo of all the queen's forces by sea and land; and it was for some time given out, that he intended to go beyond sea, to command the armies of the alliance; but this report soon fell, it being said, that the Dutch were not willing to trust their armies to the command of a prince, who might think it below him to be limited by their instructions, or to be bound to obey their orders. The late king had dissolved the commission for executing the office of lord high admiral, and had committed that great trust to the earl of Pembroke. The secrets of that board had been so ill kept, and there was such a faction in it, that the king resolved to vest it in a single person. The earl of Pembroke was not easily brought to submit to it; he saw it would draw a heavy load upon him, and was sensible, that, by his ignorance of sea affairs, he might fall into errors. To avoid which, he made use of good officers to assist him, and, resolving to command the fleet in person, took great pains to put things in such order, that it might be soon ready. A land army was designed to go with the fleet, to the command of which the duke of Ormond had been named. But, upon new measures, the earl of Pembroke was first ordered not to go to sea in person, and soon after dismissed from his post, with the offer of a great pension, which he generously refused, though the state of his affairs and family seemed to require it. Prince George, on the 21st of May, was made lord high admiral, and appointed sir George Rooke, sir David Mitchel, George Churchill, admiral of the blue squadron, and Richard Hill, esq. to be his council; though the legality of such a council was much questioned, as it was a new court, which could not be authorized to act but by an act of parliament; yet, out of respect to the queen, no public question was made of it, and the objection to it never went beyond a secret murmur. On the 14th of April, the duke of Devonshire was appointed lord steward, the earl of Jersey lord chamberlain, the earl of Bradford treasurer, and Peregrine Bertie vice-chamberlain, and sir Edward Seymour comptroller of the household, who, three days after, was likewise sworn of the privy council; and the earl of Abingdon, viscount Weymouth, lord Dartmouth, Musgrave, Greenvil, How,* Gower,

* The ladies of the bed-chamber were, the duchesses of Ormond and Queensbury; the countesses of Scarborough, Burlington, and Abington; the marchioness of Huntingdon; the ladies Hyde, Spencer, Fretcheville, Charlotte Beverwert, and Harriot Godolphin; and the duchess of Hamilton.

* "It will be seen by this view of the promotions, that those gentlemen who were loudest in the debate about Places, and for non-admission of those that were in them to be members of parliament, when there was no great likelihood of their being courted to accept them; did now very readily embrace the opportunity to get into them, without thinking of being excluded the parliament. Mr. John How had more than once declared, he for his part would never be drawn off from his Country Party by the temptation of a place, and when he was upbraided with acting contrary, it was reported he should say, 'he had kept his word, for he had 'not a place;' that of Paymaster General being divided between him and Mr. Fox. A poor quibble for so renowned a patriot. It is certain there is a great deal of truth in what Dr. Calamy writes in his abridgement. 'King William 'was no sooner dead, than the Dissenters felt

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Harcourt, with several others who had, during the last reign, expressed the most violent and unrelenting aversion to the whole administration, were now brought to the council-board, whilst the names of the lord Sommers and Halifax, and of several others firmly attached to the revolution principles, were left out of the list. The privy seal, to the admiration of all men, was given to the marquis of Normanby, and to sir John Levison Gower the chancellorship of the duchy of Lancaster. On the 2nd of May, the earl of Nottingham and sir Charles Hedges were appointed secretaries of state, in the room of the earl of Manchester, and Mr. Vernon, the latter of whom was however made one of the tellers of the exchequer. The Tories would trust none but the earl of Nottingham, and he would serve with none but sir Charles Hedges; and the maxim laid down at court was, to put the direction of affairs in the hands of that party, who promised to carry on the war, and to maintain the alliances. If they failed in this, it was said, the queen would put her affairs into other hands, which at that time few could believe.

The queen continued all the judges in their posts, except Mr. justice Turton and Mr. baron Hatsell; and most of the lord-lieutenants of counties; nor did she make any change in foreign ministers. It was generally believed, that the earl of Rochester and his party were for severe methods, and for a more entire change quite through all subaltern employments; but the lord Godolphin and the earl of Marlborough were for more moderate proceedings; so that, though no Whigs were put in any posts, yet many were kept into those, which they had enjoyed during the former reign.

Declaration of War against France and Spain.] May 4. The following Declaration of war against France and Spain was solemnly proclaimed.

"ANNE *R.*

"Whereas it hath pleased Almighty God to call us to the government of these realms, at a time when our late dear brother William 3, of glorious memory, had, in pursuance of the repeated advices of the parliament of this kingdom, entered into solemn treaties of alliance with the emperor of Germany, the States-General of the United Provinces, and other princes and potentates, for preserving the liberty and balance of Europe, and for reducing the exorbitant power of France; which treaties are grounded upon the unjust usurpations and incroachments of the French king, who had taken, and still keeps possession of a great part of the Spanish dominions, exercising an absolute authority over all that monarchy, having seized Milan and the Spanish Low Countries by his armies, and made himself master of Cadiz, of the entrance into the Mediterranean, and of the ports of the Spanish West Indies by his fleets; every where designing to invade the liberties of Europe, and obstruct the freedom of navigation and commerce. And it being provided by the third and fourth articles of the forementioned alliance, that if, in the space of two months (which are some time since expired) the injuries complained of were not remedied, the parties concerned should mutually assist each other with their whole strength: And whereas, instead of giving the satisfaction that ought justly to be expected, the French king has not only proceeded to farther violence, but has added thereunto a great affront and indignity to us and our kingdoms, in taking upon him to declare the pretended prince of Wales king of England, Scotland, and Ireland, and has also influenced Spain to concur in the same affront and indignity as well as in his other oppressions: We find ourselves obliged, for maintaining the public faith, for vindicating the honour of our crown, and for preventing the mischiefs which all Europe is threatened with, to declare, and we do hereby accordingly declare war against France and Spain; and placing our entire confidence in the help of Almighty God, and so just and necessary an undertaking, we will (in conjunction with our allies) vigorously prosecute the same by sea and land, being assured of the ready concurrence and assistance of our subjects, in a cause they have so openly and heartily espoused. And we do hereby will and require our lord high-admiral of England, our general of our forces, our lieutenants of our several counties, governors of our forts and garrisons, and all other officers and soldiers under them by sea and land, to do and execute all acts of hostility in the prosecution of this war, against France and Spain, their vas-

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'the effects of the change. They that bore 'them ill will before, and were ready to reflect 'upon them on all occasions, now openly tri-'umphed; and though their hands were tied 'before, seemed now to conclude they should 'have full liberty to deal with them as they 'pleased, and talked of nothing less than sup-'pressing them. This was common in the city, 'and in several parts of the country. They 'talked of pulling down their meeting-houses, 'as places not fit to be suffered; and in one 'town, Newcastle Under-Line, a borough for 'which sir John Levison Gower was one of the 'representatives, they actually went to work as 'soon as ever the tidings of the king's death 'reached them. Several sermons were preached, 'and pamphlets dispersed to blacken them as 'much as was possible; and such a violent 'temper discovered itself on a sudden, and 'such an inclination to heat and fury, as plainly 'shewed the parties affected to have been kept 'under an unnatural sort of restraint. Some 'that had taken the oaths to king William, 'shewed they did not love him by aspersing his 'memory, &c. But her majesty openly de-'claring for the same measures as had been 'pursued in the last reign, and the house of 'peers appearing zealous for the memory of 'king William, it was a curb and a check to 'them.'" Oldmixon.

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sals and subjects, and to oppose their attempts; willing and requiring all our subjects to take notice of the same, whom we henceforth strictly forbid to hold any correspondence or communication with France or Spain, or their subjects. But, because there are remaining in our kingdoms many of the subjects of France and Spain, we do declare our royal intention to be, that all the subjects of France and Spain, who shall demean themselves dutifully towards us, shall be safe in their persons and estates.—Given at our court at St. James's, the 4th day of May 1702, in the first year of our reign."

The Lords' Address thereon.] May 5. The Lords presented the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, do return your majesty our most humble thanks, for laying before us the Convention made by your majesty with the Emperor and the States General, in order to a concurrent Declaration of War against France and Spain; and of your royal intention to declare the war accordingly; and beg leave to assure your majesty, that we shall never be wanting, to give your majesty our utmost assistance in the prosecuting so just and necessary a war; on the good success whereof, under God, the welfare of these your kingdoms, and the liberties of Europe, do entirely depend."

The Queen's Answer.] Her Majesty gave this Answer:

"My Lords, I return you many Thanks, for your Address, and the assurances of your support and assistance; which are always very agreeable to me, and particularly upon this occasion."

The Commons' Address.] The Address of the Commons was as follows:

"Most gracious sovereign, We, your Majesty's most dutiful and loyal subjects, the Commons of England, in parliament assembled, being highly sensible of your Majesty's great and tender care for the safety and welfare of your people, do with one voice, return your Majesty our most humble thanks for your gracious condescension in communicating to us your royal intentions of declaring war, in conjunction with your Majesty's allies, against the French king, and his grandson: and we do heartily assure your Majesty, that we will, to the utmost, enable your Majesty to carry on the said war."

The Queen's Answer.] The queen gave this Answer:

"Gentlemen, I am extremely pleased with the assurances of your resolution to assist and support me in this war: I make no doubt but your unanimity, upon this occasion, will have a very good effect, for the encouragement of our allies."

The Lords' Resolutions concerning false Reports of the deceased King.] The same day came forth in print, by order of the house of Lords, the Resolution and Proceeding of their lordships upon an affair of great moment. There was a scandalous story raised, wherein, not only the late king, but her present Majesty also was traduced; viz. That the late king James did, before his death, write a letter to the queen, wherein he charged her not to accept by any means of the crown, upon the death of king William, but make way for the succession of his pretended son; and that the king having notice hereof, and desiring to see the letter, she should refuse it; upon which he should concert measures for setting her aside; and that Papers were found in his closet to that purpose: wherefore, the Lords having made enquiry into the matter, and, as much as in them lay, to vindicate the honour of their late royal sovereign, deceased, they came to this Resolution:

"That whereas their lordships had been informed, that there had been a report spread abroad, that, among the late king's papers some Paper or Papers had been found, tending to the prejudice of her present Majesty, or her succession to the crown; and the Lord President, the Lord Steward, the Lord Chamberlain, the Earl of Marlborough, and the Earl of Albemarle, who were the persons appointed by her majesty to inspect the said papers, having, at the desire of the house, severally declared, that amongst the late king's papers, they did not see or find any paper or papers, in the least tending to the prejudice of her Majesty or her succession to the crown; or to her prejudice in any respect whatsoever, or which might give any ground or colour for such report: It is thereupon resolved by the Lords spiritual and temporal in parliament assembled, that the said report is groundless, false, villainous and scandalous, to the dishonour of the late king's memory, and highly tending to the disservice of her present Majesty."

"It is ordered by the Lords spiritual and temporal in parliament assembled, That the matter of fact aforesaid, and the resolution of this house thereupon, be laid before her majesty by his grace the duke of Bolton, the earl Marshal, the earl of Radnor, the earl of Stamford, the earl of Scarborough, and the lord Ferrers: and that they do humbly desire her Majesty, from this house, that her Majesty will give order to Mr. Attorney General to prosecute, with the utmost severity of law, the authors or publishers of the above mentioned, or such like scandalous reports."

The Queen's Answer.] In pursuance of this Resolution, and proceeding of their lordships, the duke of Bolton acquainted the house, that himself, and the other lords, attended and presented their lordships' resolution to her Majesty; in answer thereunto, she was graciously pleased to say:

"I am very ready to do any thing of this kind: I will give directions to Mr. Attorney

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General, effectually to prosecute the authors and publishers of such false reports."

Proceedings in respect to Dr. Drake's 'History of the late Parliament.'] Besides the above censure, the Lords had under their consideration a complaint made of a passage in the preface of a printed book, entitled, 'The History of the 'last Parliament, begun at Westminster in the 'reign of king William, anno 1700.' The passage was read to the house, and is as follows, viz. 'And perhaps, there was a third thing in 'prospect of deeper reach than all these; which 'was, that, should it have pleased God, for our 'sins, to have snatched from us the king, on the 'sudden, by chance of war, or other fatal acci-'dent, during the tumult of arms abroad, and 'the civil disorders they had raised among us at 'home, and a numerous, corrupt, licentious 'party throughout the nation, from which the 'house of commons was sometimes not free; 'they might entertain hopes from the advantage 'of being at the helm, and the assistance of their 'rabble, to have put in practice their own 'schemes, and to have given us a new model of 'government of their own projection, and so to 'have procured to themselves a lasting impunity, 'and to have mounted their own beast, the rab-'ble, and driven the sober part of the nation 'like cattle before them.—That this is no ground-'less conjecture, will readily appear to any con-'sidering persons, from the treatment her royal 'highness the princess of Denmark, the heiress 'apparent to the crown, met with all along from 'them and all their party. They were not con-'tented to shew her constant neglect and slight 'themselves, but their whole party were in-'structed not only to treat her with disrespect, 'but spite; they were busy to traduce her with 'false and scandalous aspersions; and so far 'they carried the affront, as to make her, at one 'time, the common subject of the tittle-tattle of 'almost every coffee-house and drawing-room; 'which they promoted with as much zeal, appli-'cation and venom, as if a bill of exclusion had 'then been on the anvil, and these were the in-'troductory ceremonies.'

The passage being thus read, it was thereupon ordered by the Lords spiritual and temporal in parliament assembled, That Francis Coggan, Robert Gibson, and Thomas Hodgson, for whom the said book was mentioned to be printed, should, and were thereby required to attend that house, on the Saturday following at eleven o'clock: but their lordships, in the mean time, being informed, that Dr. Drake owned himself to be the Author of the book, and that he desired he might be appointed to attend at the same time: thereupon it was ordered, That he should attend that house on Saturday, the same hour; when after reading the order made the 6th, at the desire of Dr. Drake, for his attendance that day, the house took into their consideration the above-mentioned paragraph. After the reading whereof, Dr. Drake was called in, and the order being read to him, the Lord-Keeper asked him what he had to say concerning the said book; and the book and the said paragraph being shewed him, he owned he writ the book, and that paragraph in particular: and he thought he had just reasons to write it, he having heard her highness talked of disrespectfully in almost every coffee-house. Then he withdrew: and after some debate was called in again; and the Lord Keeper told him the house was not satisfied with what he had said, but thought he trifled, and required him to acquaint the house with the grounds of his writing that paragraph. He answered, He found it mentioned in divers anonymous pamphlets published at that time, and hoped it was no hurt to answer those pamphlets, and desired time to recollect what those pamphlets were: and then withdrew.

After some time he was called again, and asked the following questions, viz. If he could charge any person or persons in the kingdom, with the matters asserted by him in that paragraph? To which he answered, That he did not know any such person.

Then he was asked, Whether he had heard any other person say, that they could charge any person whatsoever with matters contained in that paragraph? He said, He did not know of any such persons.

Being farther asked, If he had any other grounds besides the pamphlets, and what these pamphlets were? He said, he had no other grounds besides the pamphlets; and named the several pamphlets following, as his reason for writing the said paragraph, viz. The two Legion Letters; the Black List; the 'Jura Populi Anglicani;' and Toland's 'Reasons for inviting over the princess 'of Hanover.' And being asked, If in any one of these Pamphlets there was any thing said about setting aside the present Queen? He answered, he did not remember there was.

Then he being withdrawn, the said Paragraph was taken into consideration, and it was proposed to pass a censure thereupon. And after debate, this question was put, That a censure should be then put upon the said paragraph? It was resolved in the Affirmative.

Then this question was put, That in the Preface of the Book, entitled, The 'History of the 'last parliament, begun at Westminster the 10th 'day of February, in the 12th year of the 'reign of king William, Anno Dom. 1700,' there were several expressions which were groundless, false and scandalous, tending to create jealousies in her Majesty of her people, and to cause great misunderstandings, fears, and disputes amongst the queen's subjects, and to disturb the peace and quiet of the kingdom.

It was resolved in the Affirmative, in these words, "It is resolved and declared by the Lords spiritual and temporal in parliament assembled, that in the preface of a book entitled, 'The History of the last Parliament, begun at 'Westminster the 10th day of February, in the 'twelfth year of the reign of king William, '1700' (written by Dr. Drake, as he owned at

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the bar) there are several expressions, which are groundless, false, and scandalous, tending to create jealousies in her Majesty of her people, and to cause great misunderstandings, fears, and disputes amongst the queen's subjects, and to disturb the peace and quiet of the kingdom." After which they ordered her Majesty's Attorney-General forthwith effectually to prosecute the said doctor Drake, for having writ the said paragraph.

Proceedings in respect to 'Tom Double.'] May 12th. The order being read for the master and wardens of the Stationers'-Company, and John Nutt, to attend to give an account of what they had done, in order to find out the author and printers of the book entitled, 'Tom 'Double, returned out of the country: Or the 'true Picture of a modern Whig, set out in a 'second Dialogue between Mr. Whiglove, and 'Mr. Double, at the Rummer-Tavern in Queen-'Street.' They were called in, and Mr. Nutt said that Mr. Barber, the printer, gave him the book to publish, and they withdrew. Then the house went into consideration of the paragraphs in the 89 and 90 pages of the said book, which were read as followeth, viz.

'*Whiglove.* I find we have miscarried in one 'great design, the train would not take, we were 'very hot upon it just before the parliament met, 'all the Whig coffee-houses rung how necessary 'it was to break into the Acts of Settlement, 'and to exclude——

'*Double.* Mum, Whiglove, talk no more 'upon that subject, I beseech you; fresh orders 'are issued out, and since we are not strong 'enough to make it go, and that on the con-'trary, it has alarmed and provoked all sorts of 'men, we are now directed to say, that never 'any such thing was intended by our Party, 'though, God knows, it was the whole dis-'course of all our clubs. Under the rose, this 'was one of those embrio's that proved abor-'tive upon the 30th of December last; but 'though it be not seasonable to stir in it now, 'never fear our abandoning a wicked design; 'we never quite lay aside any mischief; how-'ever, since it has really opened the eyes of a 'great many, and weakened our interest among 'several of our own side, whom, (with grief of 'mind I speak it) we cannot work up to be 'guilty of so much injustice, let us take all oc-'casions of declaring, that we will not violate 'these acts upon any account whatsoever; 'which we may the more safely do, because 'you know it is our principle not to think that 'we are bound by any protestations we make 'either in private or in public; and it is one 'of the great advantages we have over the rest 'of our fellow-subjects, and we can fetter the 'consciences of others, while our own are at 'perfect liberty.'

Then it was proposed to pass the same censure on these passages, as was passed on part of the preface of Dr. Drake's book.

After debate the question was put, Whether the house should be then adjourned? It was resolved in the negative. Then this question was proposed, That in the paragraphs which have been read, contained in the 89th and 90th pages of the book entitled, 'Tom Double re-'turned out of the country, &c.' there were several expressions, which were groundless, false, and scandalous, tending to create jealousies in her Majesty of her people, and to cause great misunderstandings, fears, and disputes amongst the queen's subjects, and to disturb the peace and quiet of the kingdom.

Then the question was put, Whether the words, 'groundless, false and scandalous,' should be left out of the question?

It was resolved in the negative: After which the main question was put, That in the paragraphs which had been read, as aforesaid, there were several expressions which were groundless, false, and scandalous, tending to create jealousies in her Majesty of her people, and to cause great misunderstandings, fears, and disputes amongst the queen's subjects, and to disturb the peace and quiet of the kingdom. It was resolved in the affirmative, in these words; It is resolved and declared by the Lords spiritual and temporal in parliament assembled, that in the paragraphs which have been read, contained in the 89th and 90th pages of the book, entitled, 'Tom Double returned out of 'the country: or the true Picture of a modern 'Whig set forth, in a second dialogue between 'Mr. Whiglove and Mr. Double, at the Rum-'mer tavern in Queen's-street,' there are several expressions which are groundless, false, and scandalous, tending to cause great misunderstandings, fears and disputes amongst the queen's subjects, and to disturb the peace and quiet of the kingdom.

Animadversions upon Sermons on the 30th of January, ordered to be burnt by the Hangman.] This being over, and complaint being made to the house, on the 10th, of a book entitled, 'Animadversions upon the two last 30th 'of January Sermons. One preached to the 'honourable House of Commons: The other to 'the Lower House of Convocation. In a Letter:' after reading and considering the several paragraphs and places therein, and debate thereupon: It was resolved and declared by their lordships, That the book or pamphlet, aforesaid, was a malicious, villainous libel, containing very many reflections on king Charles 1, of ever-blessed memory, and tending to the subversion of the monarchy: And thereupon it was ordered by the lords spiritual and temporal in parliament assembled, that the pamphlet should be burnt by the hands of the common hangman at Westminster, on Friday, the 22nd day of this instant, between the hours of one and two of the clock in the afternoon of the said day.

Dr. Bincke's Sermon censured.] Then the house took into their consideration a book, entituled, "A Sermon preached on January the 30th, 1701, in king Henry 7's chapel before the reverend clergy of the Lower House of Convocation. By W. Binckes, D. D. a Proctor for the

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diocess of Lichfield and Coventry." And some parts or paragraphs out of the ninth, tenth, and fifteenth pages of the said book being read as followeth, viz.

'And 1st, As to the near resemblance be-'tween the parties concerned, as well the 'actors as the sufferers, comparing those in the 'text with those of the day.—And here one 'would imagine, the latter were resolved to 'take St. Paul's expression in the most literal 'sense the words will bear, 'and crucify to 'themselves the Lord afresh,' and in the 'nearest likeness that could be, put him to an 'open shame. If, with respect to the dignity 'of the person, to have been born King of the 'Jews, was what ought to have screened our 'Saviour from violence, here is also one, not 'only born to a crown, but actually possessed 'of it. He was not only called king by some, 'and at the same time derided by others for 'being so called, but he was acknowledged by 'all to be a king; he was not just dressed up 'for an hour or two in 'Purple Robes,' and 'saluted with a 'Hail King,' but the usual 'ornaments of majesty were his customary ap-'parel; his subjects owned him to be their 'king, and yet they brought him before a tri-'bunal, they judged him, they condemned him: 'and that they might not be wanting in any 'thing to set him at naught, they spit upon 'him, and treated him with the utmost con-'tempt. Our Saviour's declaring, 'that his 'kingdom was not of this world,' might look 'like a sort of renunciation of his temporal so-'vereignty, for the present desiring only to 'reign in the hearts of men: but here was 'nothing of this in the case before us; here 'was an indisputable right of sovereignty, both 'by the laws of God and man; he was the 'reigning prince, and the Lord's anointed; and 'yet, in despight of all law, both human and 'divine, he was by direct force of arms, and 'the most daring methods, of a flagrant rebel-'lion and violence, deprived at once of his im-'perial crown and life.—The fact of this day 'was such a vying with the first arch-rebel, the 'apostate angel Lucifer: It was such a going 'beyond the old serpent in his own way of in-'solence and pride, that it is no wonder if he 'began to raise his head, and set up for domi-'nion in this world, when thus warmed and 'enlivened by a fiery zeal in some, and rage in 'others, to the degree of drunkenness, thirsting 'after and satiating themselves in royal blood; 'and in which respect only, heated to the de-'gree of phrenzy and madness, the plea in my 'text may seem to have some hold of them. ''Father, forgive them, for they know not 'what they do.''

After debate thereupon, it being proposed to censure these paragraphs, the house came to the following resolution:

"It was resolved and declared by the Lords spiritual and temporal in parliament assembled, That in the book entitled, 'A Sermon preach-'ed on January the 30th, 1701, in king Henry '7's chapel, before the reverend Clergy of the 'Lower House of Convocation, by W. Binckes, 'D. D. a Proctor for the Diocess of Litchfield 'and Coventry;' there are several expressions that give just scandal and offence to all Christian people." Then it being proposed to burn the Sermon; it was resolved in the negative: But at the same time their lordships ordered, That the resolution above-recited, should be communicated to the lord bishop of Litchfield and Coventry, his ordinary, whom they left to censure him as he thought fit, according to the rules of those courts.

A Book inviting over the Elector of Hanover censured.] In the next place, complaint being made to the house, of two passages in the pamphlet, entitled, 1. "Reasons for addressing his majesty to invite into England their highnesses the electoress dowager, and the electoral prince of Hanover." And likewise 2. "Reasons for attainting and abjuring the pretended prince of Wales, and all others pretending any claim, right or title from the late king James and Queen Mary, with arguments for making a vigorous war against France." The passages were read to the house:

'It appears from history, that all free peo-'ple have set aside the children of tyrants, for 'reasons of external and universal force, as in-'heriting the principles and designs of their 'parents, bearing an affection to their friends, 'and owing a revenge to their enemies; as 'more likely to grasp at a greater power than 'even their parents, the better to secure them-'selves from their disgrace, and being under 'extraordinary obligations to those foreign 'potentates, who protected or restored them.

'In fine, whether abjuration be penal or vo-'luntary, (for I cannot doubt of one or the 'other) I hope care will be taken that it be 'tendered, as I said before, to all manner of 'persons, not excepting the king's majesty, or 'her royal highness the princess of Denmark. 'For all the securities we give to them, they 'owe this security to us. Not that I doubt 'either of them, from which I am the farthest 'of any man in the world; but they both of 'them very well know, what stories and sur-'mises our enemies have been actually spread-'ing to amuse and intimidate the people: They 'have whispered horrible things of blind and 'clandestine bargains; but Cæsar's wife ought 'to be unsuspected, as well as innocent.'

After which, it was resolved and declared by the Lords spiritual and temporal in parliament assembled, That there were in that pamphlet assertions and insinuations, scandalous and dangerous, tending to alienate the affections of the subjects of this kingdom from her majesty, and to disturb the peace and quiet of the kingdom.

A Bill for the Union of the two Kingdoms.] As the queen, in her first speech to the parliament, had renewed the motion made by the late king, for the Union of England and Scot-

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land, a bill was brought in for that purpose. Many of those, who seemed now to have the greatest share of her favour and confidence, opposed this bill with much heat, and not without indecent reflections on the Scots nation; yet it was carried by a great majority, that the queen should be impowered to name commissioners for treating of an Union. It was so visibly the interest of England, and of the present government, to shut that back-door against the practices of France, and the attempts of the pretended prince of Wales, that the opposition to this first step towards an Union, and the indecent scorn with which Seymour and others treated the Scots, were clear indications, that the posts, they were brought into, had not changed their tempers: But that, instead of healing matters, they intended to irritate them farther by reproachful speeches; the bill went through both houses, notwithstanding the rough treatment it met with at first; and, on the 6th of May, received the royal assent.

The Queen's Speech at the Close of the Session.] May 25. The queen came to the house of peers, and, after passing several bills, put an end to the session with the following Speech:

"My lords and gentlemen; I cannot conclude this session without repeating my hearty thanks to you all, for your great care of the public, and the many marks you have given of your duty and affection to me. And I must thank you, gentlemen of the house of commons, in particular, both for the supplies you have given to support me in this necessary war, and the provisions you have made for the debts contracted in the former: Your great justice in making good those deficiencies will be a lasting honour and credit to the nation: I wish the difficulties they have brought upon us, may be a warning to prevent such inconveniences for the future.—I must recommend to you all, in your several counties, the preservation of the public peace, and a due execution of the laws.—I shall always wish that no differences of opinion among those that are equally affected to my service may be the occasion of heats and animosities among themselves. I shall be very careful to preserve and maintain the act of toleration, and to set the minds of all my people at quiet; my own principles must always keep me entirely firm to the interests and religion of the church of England, and will incline me to countenance those who have the truest zeal to support it."

The Parliament prorogued.] And then the Lord-Keeper, by her majesty's command, prorogued the parliament till the 7th day of July next.

PRINCIPAL OCCURRENCES DURING THE RECESS—*Naval Preparations in England and Holland—Commissioners to treat of an Union—Affairs in Ireland—Siege of Keyserswaert—Attempt upon Nimeguen—Landau invested—The Earl of Marlborough sets out to command the Army—Venlo and Fort St. Michael taken—Ruremond surrenders—Liege capitulates—The English Fleet sent to Cadiz—The Galleons taken and burnt at Vigo.*]—"The naval preparations in England and Holland," says Tindal, "were now carried on with all possible speed; and, as they raised the spirits of the confederates, so they gave no small alarms to France, Spain, and even Portugal; the design of the expedition having been kept so secret, that it was uncertain which of those three kingdoms was most threatened. France, having sent a strong squadron of men of war into the West-Indies, both to attack the English plantations, and to bring home the Spanish galleons, had no sufficient number of ships left to defend her own coasts, much less to protect those of Spain, whose king, in the beginning of the spring, was gone into Italy, both to appease the tumults in the kingdom of Naples, and to share with the duke of Vendosme, the expected honour of forcing prince Eugene to repass the mountains of Tirol.

"And though the king of Portugal gave fair words to the imperial ministers, and to Mr. Methuen, the English envoy, yet he began to be apprehensive, that the allies, having a formidable power at sea, would use more prevailing means than a negociation to make him break his late engagements with France. On the 30th of May, sir George Rooke, admiral of the English fleet, having hoisted the union flag on board the Royal Sovereign, came to Spithead with sir Cloudesly Shovel, on board the Queen, and the great ships that lay at the Nore: And, at the same time, rear-admiral Fairborne arrived there from Ireland, with a squadron of men of war, having on board four regiments of foot, that were to be part of the land forces, to be commanded by the duke of Ormond, who, on the first of June, arrived at Portsmouth, accompanied by sir Henry Bellasis, who was to serve under him, and by admiral Churchill; and, the next day, prince George likewise set out for that sea-port.

"The same day, the queen went from St. James's to Windsor, having appointed Simon Harcourt, esq. to be her Solicitor-General, and conferred the honour of knighthood both upon him and on Edward Northey, esq. the Attorney-General. The day before, out of a just regard to the law of nations, the queen, by proclamation, ordered all ships, stopped before the declaration of war, to be discharged, and caused another proclamation to be published, 'For 'the encouragement of her ships of war and 'privateers.' And at the same time her majesty renewed the commission for the management of the customs; and upon her return from Windsor, appointed the lord-lieutenants, the commissioners of trade; for prizes, stamp, and salt-duties; and generals of her land-forces; gave audience to several foreign ministers, and disposed of many places and employments; and, among the rest, the earl of Marlborough was made master of the ordnance, the hon. John Granville, lieutenant-general, William Bridges, master surveyor, Christopher Musgrave, clerk of the same; and Edward

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Southwell was appointed secretary of state in Ireland, on the resignation of his father sir Robert Southwell.

"The queen, pursuant to the power given her by acts of parliament of both kingdoms, appointed commissioners for treating about an Union between England and Scotland. The commissioners met, for the first time, on the 22d of October, at the Cock-pit, where, after reading both commissions, Lord-Keeper Wright made a short speech on the occasion of their meeting, and was answered by the duke of Queensberry.

"As there was not a quorum of the Scots commissioners arrived in town, their meeting was adjourned, by a letter from the queen, to the 10th of November; but, about the 20th of the same month, they met again; and, notwithstanding some previous objections made by the Lord-Keeper to the validity of the Scots commission, they fully adjusted the preliminaries, of which this was one of the most considerable, 'That nothing agreed on amongst 'themselves should be binding, except it be ra-'tified by her majesty, and the respective par-'liaments of both nations; and that, except 'all the heads proposed for the treaty were 'agreed to, no particular thing agreed on 'should be binding.' The Lord-Keeper then proposed on the part of the English, 'That 'the two kingdoms should be inseparably 'united into one monarchy under her majesty 'and her heirs and successors, and under the 'same limitations, according to the acts of set-'tlement.' And the duke of Queensbury proposed on the part of the Scots, 'That both 'nations should be united in one monarchy, 'and one parliament, with a mutual communi-'cation of trade and privileges.' The proposal of the English was readily agreed to; and the queen, to quicken matters, came on the 14th of December, and made a speech to them. The Scots commissioners had given in six proposals, on which some considerations, as a subject-matter of debate, were delivered by the English commissioners. But, when the Scots commissioners gave in their proposals for preserving the rights and privileges of their company trading to Africa and the Indies, such difficulties arose, as put a stop to all farther progress, and nothing more was done upon this commission, which was annulled by the new Scottish parliament called by the queen, as will hereafter be seen.

"Ireland was now put under lords justices, named by the earl of Rochester. The earl of Mount-Alexander, major-general Erle, and Thomas Knightly, were appointed lords justices, in the room of the archbishop of Dublin and the earl of Drogheda, whom the lord Rochester had left in the government of that kingdom. Mean time, the trustees for the forfeited estates continued still in their former authority.

"The first step of the war was to be made in the name of the elector Palatine, in the siege of Keyserswaert, which had been put into the hands of the French by the elector of Cologne, and which, whilst in their hands, exposed both the circle of Westphalia and the dominions of the States; for their places on the Whall, being in no good condition, lay open to the excursions of that garrison. The trenches had been opened before this town on the 18th of April; and the care of the siege committed to the prince of Nassau Saarbrugh (declared the emperor's marshal de camp) under whom the Dutch served as auxiliaries to the emperor, the States not having declared war against France. Another army of the Dutch was formed under the earl of Athlone, and lay in the dutchy of Cleve to cover the siege; and a third, commanded by general Cohorn, broke into Flanders, forced and demolished the lines between the two forts of St. Donat and Isabella, which the enemy had been many months raising with great labour and expence, and laid the greatest part of the Chatellanie of Bruges under contribution. However, after these successes, upon the approach of the marquis de Bedmar and the count de la Motte, with the French troops under their command, which were superior in number to him, Cohorn was forced to retire under the walls of Sluys; but, to prevent the enemy's taking fort Donat, he first laid the country under water, and forced the Spaniards to retire towards Ghent.

"However on April the 24th, the besiegers carried their trenches within two hundred paces of the town, and had four batteries continually firing, with which they had made considerable breaches in the rampart, so that they intended to make an attack upon the counterscarp; for which purpose a good number of fascines and wool-packs were prepared, it being thought, that by those proceedings the town would soon surrender. However, the confederates were very much mistaken in their calculation: for, though they proposed to be masters of that place in three weeks, they found it held out near two months, and had like to have proved a bad beginning of a new war. For count Tallard, having posted himself with his flying camp, on the other side of the Rhine, fired from thence with so much success, that the besiegers, notwithstanding their intrenchments, were very much incommoded, and had, besides, the mortification to see the besieged succoured from that camp with troops, ammunition, and all necessary refreshment, which, with the excessive rains that swelled the Rhine, to the great prejudice of the assailants, occasioned the length of the siege. However, all this while the besiegers cannonaded the town, and battered the outward fortifications with forty-eight great guns, and thirty mortars: so that it was almost reduced to ashes, when they resolved to make a general attack on the counter-carp and ravelin. This they executed with unparalleled bravery. The conflict was obstinate and bloody, for nothing was to be seen for two hours, but flame and smoke: But at length the besieged were constrained to give ground, and leave the besiegers masters both of the ravelin and the counterscarp, upon which

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they immediately lodged themselves. The prince of Nassau Saarburgh performed prodigies of valour, giving his orders with great contempt of the danger, and admirable presence of mind; and all the other officers and soldiers behaved themselves in this action beyond expectation. This advantage, however, cost the confederates very dear; for they had six hundred and eighty men killed, and one thousand nine hundred and two wounded in the action; but it likewise so much weakened the garrison, that they were forced to capitulate, and obtained honourable terms. The fortifications were raised according to agreement.

"On the 10th of June, N. S. the marshal de Boufflers decamped from Zanten, and directed his march, without sound of trumpet or beat of drum, through the plains of Goch towards Mooker-Hyde, close by Nimeguen, with a view to get between the confederate army and that city, and so to cut them off from their provisions, ammunition, and forage. Upon this the earl of Athlone, having early information of the enemy's motion, and discovering their design, called a council of general officers, wherein it was unanimously resolved, that the confederates should begin their march that evening. The baggage was accordingly sent to Nimeguen, and, after several marches and regulations, the earl about break of day received particular intelligence of the strength of the enemy, and caused the cavalry to be drawn up in order of battle to cover the march of the infantry. About eleven in the morning, the French horse advanced in great numbers, with the household-troops at their head, and pressed upon the earl, who behaved himself with great resolution. However, as the confederate squadrons were wheeling, the French troops pushed them upon the foot, and put two or three battalions into confusion; but, by the conduct of the general officers, the enemy was soon repulsed. On the other side there happened an encounter between some of the squadrons of the French king's household, some Danish squadrons, and some of the earl of Athlone's carabineers, who so remarkably distinguished themselves on this occasion, that the French were repulsed, though with considerable loss on both sides. By this time the confederates were got under the cannon of Nimeguen, which, soon after, began to play upon the enemy, and the burghers signalized themselves on this occasion in an extraordinary manner; for, though they had not a gunner in the town, they managed their artillery with great success. The English, who had the honour to close the retreat, maintained their post in excellent order, being assisted by the prince of Wirtemberg, who put a stop to the household-troops, which were advanced very near them, and preparing to charge them towards the end of their march. Twenty battalions of foot were posted in the outworks of Nimeguen, and the whole army was under arms all that night, as was the enemy likewise. The next morning a great body of French horse and foot advanced towards the allies, as if they intended to attack them; but this they did only to cover the march of their own army, which filed off towards Cleve, venting their rage at their disappointment upon the defenceless country, which they rifled and laid waste, destroying the park of Cleve, and all the delicious walks and avenues of that charming place. Thus was marshal Boufflers disappointed in his design upon Nimeguen, which, if taken, must have been followed with very fatal consequences, for the French would have penetrated into the very heart of the United Provinces: It was but indifferently provided for an attack, and the scheme was well laid against it, and wanted but little of being punctually executed, the enemy missing but half an hour of arriving in the outworks before the confederates. The earl of Athlone's conduct on this occasion raised his credit, as much as it sunk marshal Boufflers, who, though he had a superior army, animated by the presence of so great a prince as the duke of Burgundy, was able to do nothing, but was unsuccessful in every thing that he designed; and his parties, that at any time were engaged with those of the earl, were defeated in almost every action.

"The unsuccessful attempt upon Nimeguen, and the reduction of Keyserswaert, were not the only mortifications which the French suffered; for, their army in Germany being but weak, and drawing together but slowly under the command of marshal de Catinat, the Germans had an opportunity of laying siege to Landau. This strong and important place was invested on the 16th of June, N. S. by prince Lewis of Baden, who spent the rest of the month in raising batteries, and making his approaches; and, on the 27th of July, the king of the Romans arrived in the confederate camp, in order to have the honour of taking the city: his train was so large, and his equipage so splendid, that the expence of it put all the emperor's affairs in great disorder; the most necessary things being neglected, while a needless piece of pomp consumed so great a part of their treasure. The siege was stopped for some weeks for want of ammunition; but at last the citadel was taken by storm on the 9th of September, and, on the 12th, the city surrendered.

"This was the state of the campaign, before the earl of Marlborough left England, from whence he set out on the 12th of May, and, upon his arrival at the Hague, having the character of ambassador as well as captain-general, he had several conferences with the States, in which he gave them all possible assurances of the queen's affection and resolution to support them in all emergencies. The earl of Athlone was set on by the other Dutch generals, to insist on his quality of velt-marshal, and to have the command with the earl of Marlborough by turns. But, though he was now in high reputation by his late conduct, the States obliged him to yield this point to the earl of Marlborough, whom they declared generalissimo of all their forces, and sent orders

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to all their generals and other officers to obey him. The earl, on his part, made so modest and becoming a use of the power put into his hands, as soon gained him the hearts of all the general officers under him; and, to the earl of Athlone in particular, he behaved in so obliging a manner, that the command seemed to be equal between them.

"All things being now regulated with the deputies of the States, the earl left the Hague on the 30th of June, N.S. and went to Breda; from whence he sent what detachments could be spared from that place and other garrisons, to the camp at Nimeguen. He followed thither himself on the 2d of July, where, the next day, the earl of Athlone, lieutenant-general Dopff, and the other general officers, made him a visit; and, at an interview with them, he gave the necessary orders for drawing the army together. Nineteen battalions of the troops, which had been employed at the siege of Keyserswaert; the troops of Hesse and Lunenburgh; the English forces from Breda under major-general Lumley, and other troops, having joined the army, a camp was formed at Duckemberg and Budweick, consisting of seventy-six battalions of foot, and one hundred and twenty squadrons of horse and dragoons, amounting together to about sixty thousand men, with sixty-two cannon, eight mortars and hawbitz, and four and twenty pontoons. Thither the earl went likewise, and, on the 8th, called a council of war of all the general officers, to concert the further operations of the campaign.

"The earl of Athlone was always inclined to cautious and sure, but withal feeble, counsels; but the earl of Marlborough, when the army was thus brought together, finding his force superior to the duke of Burgundy, on the 16th passed the Maese, and encamped at Over-Asselt near Grave, within two leagues and a half of the enemy, who had intrenched themselves between Goch and Gennep. On the 26th, the confederate army repassed the Maese below the Grave; and, on the 28th, encamped at Geldorp, upon which motion the French passed the same river about Venlo. Two days after, the allies removed from Geldorp to Gravenbroeck, where finding a French garrison in the castle, seated in a morass, and surrounded by a double ditch and good pallisadoes, a detachment, under the command of the lord Cutts, briskly attacked it, and, with the assistance of four cannon and two hawbitz, after a short resistance obliged the garrison, consisting of a captain and an hundred men, to surrender at discretion. The same day, the British artillery arrived in the camp from Holland, under convoy of two English regiments of horse and two of foot, which had left England in the beginning of June. On the 2d of August, N.S. they advanced to Petit-Brugel, following the French, who retreated as they advanced, so close, that they were obliged to abandon the Spanish Guelderland, which was left to the discretion of the confederates. The earl of Marlborough was for venturing upon a decisive action, for which end, the whole army was ordered to their arms the next morning early. But the Dutch were afraid to put things to such an hazard, and would not consent to it. Pensionary Fagel, and those who had the administration of affairs at the Hague, proceeded with the more caution, because, upon the late king's death, those, who had always opposed him, began to form parties in several of their towns, and were designing a change of government; so that any public misfortune, in their conduct, would have given great advantages to those, who lay upon the watch for them. The pensionary was more particularly aimed at; and that made him the more unwilling to run any risque. Those, who pretended to be judges, thought, that, if the earl of Marlborough's advice had been followed, matters might have been brought to a happy decision; and the rather, as it afterwards appeared, that the French army was not above half got to their camp, greatly fatigued by an almost continual march of two days and two nights, and in the greatest consternation. But, as the earl was prudent in his conduct of the army, so was he careful not to take too much upon himself.

"The duke of Burgundy, finding himself obliged to retreat as the confederate army advanced, thought this was not suitable to his dignity; and therefore left marshal Boufflers to command, ending his first campaign very ingloriously; and it appears, that the French king was dissatisfied with the conduct of the marshal, for he never after reposed any confidence in him.

"The Dutch, who were so lately in the deepest consternation upon the retreat of their army under the cannon of Nimeguen, before the earl of Marlborough's arrival, had now the pleasure to see the French fly in their turn; and thus were the United Provinces preserved by the earl's prudence and vigilance, whilst the duke of Burgundy, who came to the army to be taught how to fight, learned nothing but how to avoid an engagement.

"The earl of Marlborough went on, taking several places, which made little or no resistance; and finding at length, that the French were not to be brought to an engagement on equal terms, and the deputies of the States-general, who followed the army, having represented to him, that it was much more for the advantage of Holland to dispossess the enemy of the places they held in the Spanish Guelderland, whereby the free navigation of the Maese was interrupted, and the important town of Maestricht in a manner blocked up, he therefore disposed all things for the siege of Venlo. In the mean time, general Schultz was ordered to reduce the town and castle of Wertz, which capitulated after a short resistance.

"On the 7th of September, the trenches were opened on both sides the Maese, and the town of Venlo surrendered on the 25th of the same month, after fort St. Michael had been stormed and taken by the English under the command

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of the lord Cutts, who, with several other officers of the same nation, particularly the young earl of Huntingdon, shewed an incredible bravery on that hazardous occasion.

"The earl proceeded with the army under his command to sit down before Ruremond, the second city of Guelders, standing upon the Maese, at the confluence of that river and the Roer; which, after a very vigorous siege, beat a parly on the 6th of October, and the next day surrendered upon articles. The same time Stevenswært, a fortified place, seated on the Maese, about five miles from Ruremond to the south, capitulated likewise. Upon the successes of the confederates, marshal Boufflers thought it high time to provide for the security of Liege which he justly apprehended to be in no small danger. Being accompanied therefore with the duke of Mayne, and taking with him some Engineers, he went to view the fortifications of the citadel, and, after that, the most considerable posts between that city and Mæstricht, as if he intended to incamp there; but, finding it impracticable by the approach of the confederates, who were marching towards Liege, he retreated to Tongeren with great precipitation, and went towards Brabant, to defend such places, as at that time were not intended to be attacked.

"When the confederate army came before Liege, they found the suburbs of St. Walburgh set on fire by the French garrison, who were retired, part into the citadel, and part into the Chartreuse, after which the city was delivered up to the besiegers, by a treaty between the earl of Marlborough, the deputies of the States-general, and commissioners from the chapter and magistracy. Six days after, the trenches were opened against the great citadel, which was taken by storm, notwithstanding de Violaine, the governor, five days before, upon a summons to surrender, sent the earl of Marlborough word, "That it would be time enough to think of that six weeks hence." The assailants having exerted an amazing courage in this attack, and put most of the garrison to the sword, gained a considerable booty, besides honour; for, in the cash of treasure alone, there were three hundred thousand florins in gold and silver, and notes for one million two hundred thousand florins upon substantial merchants at Liege, which were all accepted, and turned into ready money. This victory was soon after compleated by the surrender of the Chartreuse, the garrison of which place, having capitulated, were conducted to Antwerp.

"Thus ended the campaign with great success, many places having been taken with little resistance, and an inconsiderable loss either of time or of men. The earl of Marlborough's conduct gained him the hearts of the army, and the States-general were highly satisfied with every thing he did; and the earl of Athlone did him the justice to own, that he had differed in opinion from him in every thing that was done, and that therefore the honour of their success was intirely owing to him.

"Whilst these things were transacting on the continent, the confederate fleet was not idle. It consisted of fifty ships of the line, thirty English and twenty Dutch; the English commanded by sir George Rooke, having under him vice-admiral Hopson, and the rear-admirals Fairborne and Graydon; the Dutch under the command of lieutenant-admiral Allemond, admiral Callemburgh, the vice-admirals Vandergoes and Pieterson, and the rear-admiral Wassanaer: with about 14,000 land forces on board the transports, 9,663 English, and 3,924 Dutch: The English commanded by sir Henry Bellasis, lieutenant-general; sir Charles O'Hara and lord Portmore, major-general; and the colonels Seymour, Hamilton, and Matthews, brigadiers: And the Dutch, by major-general Sparre and brigadier baron Palandt: The duke of Ormond had the supreme command of the whole. Sir George Rooke spoke so coldly of the design, which he went upon, before he sailed, that those who conversed with him, were apt to infer, that he intended to do the enemy as little harm as possible. On the 19th of June, the fleet weighed from Spithead, and came to anchor at St. Helen's, in order to sail with the next fair wind. Three days after, the rear-admirals Fairborne and Graydon were detached from thence with sixteen men of war and two fireships, English, and a squadron of the Dutch, in all thirty sail, upon a secret expedition; and, on the 23d, the prince of Hesse d'Armstadt sailed in the Adventure frigate for Lisbon. Advice had been sent over from Holland of a fleet, that sailed from France under monsieur de Casse, and was ordered to call in at the Groyne. Sir John Munden was recommended by sir George Rooke to be sent against this fleet; and, though he came up with them with a superior force, yet he did not hinder the French from getting into the Groyne, nor fight them there.

"Upon his return therefore to St. Helen's, where he arrived on the 25th of June, a court-martial, of which sir Cloudesley Shovel was president, was appointed to try him. He was acquitted, some excusing themselves for their lenity to him, by alledging, that, if they had condemned him, the punishment was death; whereas they thought his errors flowed from a want of sense; so that it would have been hard to condemn him for a defect of that which nature had not given him. But this acquittal raised such a public clamour, that the queen ordered him to be broke.

"Sir George Rooke, to divert the design, which he himself was to go upon, wrote from St. Helen's, that the Dutch fleet was victualled only to the middle of September; so that no great design could be undertaken, when so large a part of the fleet was so ill provided. When the Dutch admiral heard of this, he sent to their ambassador to complain to the queen of this misinformation, for he was victualled to the middle of December. On the 1st of July, the confederate fleet set sail from St. Helen's, steering their course for Cadiz; but they were

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for some time stopped by contrary winds, accidents, and pretences, many of which were thought to be strained and sought for; however, at last, on the 12th of August, they came to anchor in the bay of Cadiz, about two leagues from that city. Sir George Rooke had laid no disposition beforehand how to proceed upon his coming thither, and some days were lost on pretence of seeking for intelligence. It is certain, that our court had false accounts of the state of the place, with regard both to the garrison and the fortifications; the garrison being much stronger and the fortifications in a much better condition, than had been represented. The French men of war and the gallies, that lay in the bay, retired within the puntals. In the first surprize, it had been easy to have followed them, and to have taken or burnt them, which sir Stafford Fairborne offered to execute; but sir George Rooke and the rest of his creatures did not approve of it. Some days were lost before a council of war was called. In the mean while, the duke of Ormond sent some engineers and pilots to sound the south side of Cadiz near the island of St. Pedro; but, while this was doing, the officers, by the taking of some boats, came to know, that the inhabitants of Cadiz had sent over the best of their goods and other effects to Port St. Mary's, an open village over against it, on the continent of Spain; so that there was good plunder to be had easily: whereas the landing on the isle of Cadiz was like to prove dangerous, and, as some made them believe, impracticable. In the council of war in which their instructions were read, it was proposed to consider, how they should put them in execution. General O Hara made a long speech against landing; shewing, how desperate an attempt it would prove, and how different they found the state of the place from the representations made of it in England. The greater number agreed with him, and all that the duke of Ormond could say to the contrary was of no effect. Sir George seemed to be of the same mind with the duke, but all his dependants were of another opinion: so that this was thought a piece of craft in him. In conclusion, the council of war came to a resolution not to make a descent on the island of Cadiz; but, before they broke up, those whom the duke had sent to sound the landing-places on the south side, came and told them, that, as they might land safely, so the ships might ride securely on that side. Yet they had no regard to this, but adhered to their former resolution, nor were there any orders given for bombarding the town. The sea was for the most part very high, while they lay there; but it was so calm for one day, that the engineers believed they could have done much mischief, but they had no orders for it; and indeed it appeared very evidently, that they intended to do nothing but plunder Port St. Mary's; a design, which was directly contrary to the advice of Mr. Methuen, the English envoy in Portugal, who, in a letter to the duke of Ormond from Lisbon of the first of August, told him, 'That the point of the greatest importance 'was to insinuate to the Spaniards, and shew 'by his proceedings, that he came not as an 'enemy to Spain, but only to free them from 'France, and give them assistance to establish 'themselves under the government of the house 'of Austria.' However, the land-forces being set ashore in the bay of Bulls, made themselves masters of Rota, Fort St. Katharine, and Port St. Mary, which they found deserted, but full of riches, which were immediately plundered; some of the general officers setting a very ill example to all the rest, especially O Hara and Bellasis. The duke of Ormond tried to hinder this, but did not exert his authority; for if he had made some examples at first, he might have prevented the mischief that was done. But, the whole army running so violently on the spoil, he either was not able, or, through a gentleness of temper, not willing to proceed to extremities. He had published a manifesto, according to his instructions, by which the Spaniards were invited to submit to the emperor; and he offered his protection to all that came in to him. But the plundering of St. Mary's was thought an ill commentary on that text. After some days of unsuccessful attempts on the forts of that side, particularly Matagorda, it appeared, that nothing could be done; and, provisions now growing scarce, and the sea officers representing the danger of staying any longer in those seas, the duke of Ormond, though not without great reluctance, consented to the re-embarking of the land-forces. Some of the ships crews were so employed in bringing off and bestowing the plunder, that they took not the necessary care to furnish themselves with fresh water. Sir George Rooke, without prosecuting his other instructions, in case the design on Cadiz failed, gave orders only for a squadron to sail to the West-Indies, with some land-forces, and though he had a fleet of victuallers, that had provisions to the middle of December, he ordered them to sail home; by which means the men of war were so scantily furnished, that they were soon forced to be put on short allowance. Nor did he send advice-boats, either to the ports of Algarve or to Lisbon, to see what orders or advices might be lying there for him, but sailed in a direct course for England.

Some time before this, the news of the arrival of the French squadron, under M. Chateau-Renault, with the Spanish Galleons, in the harbour of Vigo, being brought to England, orders were immediately dispatched to sir George Rooke, to attempt the taking or destroying them; and sir Cloudesly Shovel was ordered upon the same design, with another squadron of men of war. But, before these orders could reach the grand fleet, sir George Rooke, in his return towards England, having, on the 22d of September, sent the Eagle, Sterling-Castle, and Pembroke, to water in Lingos-bay, Mr. Beauvoir, the chaplain of the Pembroke, went ashore in the town of Lagos, and meeting with a gentleman in the street, whom, by several cir-

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cumstances, he judged to be no Portuguese, he accosted him in French: which the other, who proved to be the French consul, returning in a very obliging manner, invited him to his house. Mr. Beauvoir, extremely willing to embrace this offer, continued there two nights; during which, the consul, in their several conversations, could not forbear to boast of his master's strength at sea, and at last gave some hints of the arrival of the galleons on that coast. On the 24th, Mr. Beauvoir being ready to embark, and understanding that a gentleman was arrived in that town bound for the fleet, with letters to the prince of Hesse and Mr. Methuen (who were gone from the fleet to Lisbon some time before) he invited him to go aboard the Pembroke, without taking the least notice of their departure. The gentleman having gladly accepted this invitation, and told him just as they were leaving the shore, that M. Chateau-Renault was arrived at Vigo with thirty men of war, and twenty-two galleons, and that he was sent by the imperial minister to the grand fleet, they went together on board the Pembroke, where captain Hardy, her commander, being informed, as well by Mr. Beauvoir of what he had gathered from the French consul, as by the other gentleman, concerning what he knew of the matter, he set sail the next morning in quest of the grand fleet, which at last he met with on the 6th of October. Having imparted his intelligence to the English admiral, sir George communicated the same to the Dutch; and it was resolved to attempt the destroying of the French and Spanish ships at Vigo. Accordingly, the fleet came to an anchor on the 11th, against that place, almost unperceived by the enemy, by reasons of the hazy weather: and, finding that the French and Spanish ships were carried up beyond a narrow streight, defended by a castle, besides a strong boom about it, made with masts, cables, and chains, it was resolved in a council of war, That, since the whole fleet could not safely go up to the place, where the enemy's ships lay, a detachment of 15 English and 10 Dutch men of war, with all the fire-ships, frigates, and bomb-vessels, should go upon that service, with all the flag-officers aboard them, whilst part of the land-forces were to make a descent, and to attack the fort on the south side of Rodondela, a small fishing-town.

"Pursuant to this resolution, the duke of Ormond, having, on the 12th of October, landed 2500 men two leagues from Vigo on the south side of the river, without the least opposition, he ordered the grenadiers to advance to the fort at the entrance of the barbour; which they did with such chearfulness and resolution, that having made themselves masters of a platform of thirty-eight pieces of cannon, they pursued the French to the very gates of the castle or stone tower, and attacked them so vigorously, that M. Sorel, their commander, despairing of holding the place, attempted to fight his way through the English sword in hand. But no sooner had they opened the gate, than the grenadiers rushing in made themselves masters of the castle, and took 300 French seamen and 50 Spaniards prisoners. Whilst these things were transacting ashore, the squadron designed for this expedition advanced briskly towards the boom, and, after a little stop by a calm, vice-admiral Hopson, in the Torbay, broke, amidst the enemy's fire, through the boom, where he received several broad-sides from the Bourbon and l'Esperance, two French men of war placed within the boom. The rest of vice-admiral Hopson's division, and that of the Dutch vice-admiral Vandergoes, bearing at the same time upon the bottom, were becalmed, and consequently struck, so that they were forced to cut their way through it, except their admiral, who hit the same passage by which vice-admiral Hopson had entered before. Hopson, in the mean time, being boarded by a fire-ship, was in great danger of being burnt, had not the fire-ship been blown up too soon; notwithstanding which, he received considerable damage in his rigging, and many of his men, during the first consternation, threw themselves overboard, in hopes to save themselves, but were most of them drowned, whilst the rest behaved so well as to preserve the ship. The French admiral seeing the boom cut to pieces, the platform and castle in the enemy's hands, the Bourbon taken, and the whole confederate squadron ready to fall in among them, ordered his own ship to be set on fire; and his example being followed by all the rest, afforded a most dreadful spectacle to the Spaniards as well as to the French. Whilst they were thus busied in the destruction of their own fleet, the English were as careful in preserving it, not without some success; several, as well of the men of war as of the galleons, being taken, four by the English, and five by the Dutch; but the rest were burnt, with seven French men of war. What made this victory the more considerable, was its being gained with inconsiderable loss; there being not above forty men killed, and ten wounded, of the landmen in this action, and very few of the seamen, except those that were drowned of vice-admiral Hopson's ship. As to the cargo aboard this fleet, which was computed at twenty millions of pieces of eight in gold and silver, besides merchandizes, about fourteen millions of it were taken out before by the enemy; the rest was either taken by the English or Dutch, or left in the galleons, that were sunk or burnt. The goods were valued at twenty millions of pieces of eight more, of which one fourth part only was saved by the enemy, near two fourths destroyed, and the rest taken by the confederates, besides a great quantity of plate, and other rich commodities, concealed for the use of private persons in the galleons, and a great deal of other plate belonging to the French officers found at Rodondela, of which the duke of Ormond took possession the next morning, and in which much other plunder was found. The French seamen and soldiers escaped, for the English, having no horse, could not pursue them. The Spaniards ap-

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peared at some distance in a great body, but they did not offer to enter into any action with the duke of Ormond: And it appeared, that the resentment of that proud nation, which was now governed by French counsels, was so high, that they would not put themselves in any danger, or to any trouble, even to save their own fleet, when it was in such hands.

"After this great success, it came under consultation, whether it was not adviseable to leave a good squadron of ships with the land-forces, to winter at Vigo, since the neighbourhood of Portugal could supply them with provisions and all other necessaries, and this might encourage that king to declare himself, when there was such a force and fleet lying so near him; and it might likewise encourage such Spaniards as favoured the emperor, to declare themselves, when they saw a safe place of retreat, and a force to protect them. Upon these considerations, the duke of Ormond offered to stay, if sir George Rooke would have consented; but he excused it, alledging, that he had sent home the victuallers with the stores, and therefore could not spare what was necessary for such as should stay there. And indeed he had so ordered the matter, that he could not stay long enough to try whether they could raise and search the men of war and galleons that were sunk; and he was obliged to make all possible haste home, for, if the wind had turned to the east, which was usual in that season, a great part of the ships crews must have perished with hunger.

"On the 16th of October, sir Cloudesly Shovel having joined the confederate fleet with twenty-nine sail, the land-forces re-imbarked the next day; and, on the 19th, sir George Rooke and vice-admiral Hopson, with ten men of war, yet sail for England, leaving sir Cloudesly Shovel with the rest near Vigo, to destroy the enemy's ships that were ran ashore; which being effected, he also steered his course for England, where the fleet arrived (after being separated by a storm at the entrance of the channel) on the 17th of November. Ten days before, sir George Rooke, with his squadron, came into the Downs, and the same day, at four in the afternoon, the duke of Ormond landed at Deal, and having given the necessary orders for the landing and quartering the forces, went that night to Canterbury, and arrived at London the next day, being received with great marks of favour by the queen, and with the loud acclamations of the people; the success at Vigo, having silenced the clamours about the miscarriages before Cadiz. The queen gave likewise a noble gratuity to the lord Shannon and captain Thomas Hardy, who were sent express by the general and admiral with the first account of their prosperous attempt; and the captain, besides a present of a thousand guineas, had the honour of knighthood. On the other hand, sir Henry Bellasis and sir Charles O Hara were, by her majesty's orders, put under arrest, for having by their example, promoted and encouraged the plundering of Port St. Mary's; but, upon the report of the generals appointed to examine into that matter, Bellasis only was found guilty, and dismissed from her majesty's service; and sir Charles O Hara was cleared, and his suspension taken off. A proclamation was also issued out, some time before, for discovery and recovery of all such goods, plate, and other effects, as, contrary to her majesty's and the duke of Ormond's express commands, were plundered or embezzled at Port St. Mary's, and from the galleons taken at Vigo, and put on board her majesty's men of war and other vessels. But this proclamation had little or no effect, so that the public was not much enriched by this extraordinary capture, though the loss which the enemy sustained by it was a vast one; and, to compleat the ruin of the Spanish merchants, their king seized on the plate which was taken out of the ships upon their first arrival at Vigo.

"Thus ended the campaign very happily for the allies, and most gloriously for the queen; whose first year, being such a continued course of success, gave a hopeful presage of what might be hereafter expected."

The Parliament dissolved and a new one called.] The parliament of England was in course to determine six months after the death of the late king; but, before that time expired, the queen thought fit to exert her royal prerogative, and to issue out a proclamation, on the 2nd of July, for dissolving this present parliament, and declaring the speedy calling another to be holden at Westminster, the 20th of August next; but afterwards prorogued to the 6th of October, and at last, to the 23d of that month.

FIRST SESSION OF THE FIRST PARLIAMENT OF QUEEN ANNE.

List of the House of Commons.] October 20, 1702. This day, the New Parliament * met. The following is a List of the Members of the House of Commons:

A LIST of the HOUSE OF COMMONS in the First Parliament summoned by Queen ANNE, October 20, 1702.

Bedfordshire.	*Bedford Town,*
Lord Russel,	William Spencer,
Sir William Gostwick.	Edward Carteret.

* "The Queen did not openly interpose in the Elections, but her inclinations to the Tories appearing plainly, all people took it for granted, that she wished they might be the majority: This wrought on the inconstancy and servility, that is natural to multitudes: and the conceits which had been infused and propagated with much industry, that the Whigs had charged the nation with great taxes, of which a large share had been devoured by themselves, had so far turned the tide, that the Tories in the House of Commons were at least double the number of the Whigs. They met full of fury against the memory of the late king, and against those, who had been employed by him." Burnet.

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Berkshire,
Sir John Stonehouse,
Richard Nevill.
Windsor,
Lord Fitzharding,
Richard Topham.
Reading,
Sir Owen Buckingham,
Tanfield Vachell.
Wallingford,
William Jennings,
Thomas Renda.
Abington,
Sir Simon Harcourt.
Buckinghamshire,
Lord Cheyne,
Goodwin Warton.
Buckingham Town,
Sir Edmund Denton,
Roger Price.
Chipping-Wicomb,
Charles Godfrey,
Fleetwood Dormer.
Aylesbury,
Simon Harcourt,
James Herbert.
Agmondesham,
Sir Samuel Garrard,
John Drake.
Wendover,
Richard Hampden,
Richard Crawley.
Marlow,
Sir James Etheridge,
James Chase.
Cambridgeshire,
Sir Rushout Cullen,
Granado Pigot.
Cambridge University,
Henry Boyle,
Arthur Annesley.
Cambridge Town,
Henry Pickering,
Anthony Thompson.
Cheshire,
Sir Roger Mostyn,
Sir George Warburton.
Chester City,
Henry Bunbury,
Peter Shackerly.
Cornwall,
Sir Richard Vivian,
James Buller.
Lanceston.
Lord Hyde,
William Cary.
Leskard,
William Bridges,
Thomas Dodson.
Lestwithiel,
Russel Roberts,
Sir John Molesworth.
Truro,
Henry Vincent,
Sir Philip Meadows.
Bodmin,
Francis Roberts,
John Hoblin.
Helston,
Sidney Godolphin,
Francis Godolphin.
Saltash,
John Rolle,
Thomas Carew.
Camelford,
Dennis Glynn.
Westlow,
Charles Seymour,
Henry Poley.
Grampound,
Francis Scobell,
James Cragge.
Eastlow,
Sir John Pole,
Sir Henry Seymour.
Penryn,
Samuel Trefusis,
Alexander Pendarvis.
Tregony,
Hugh Boscawen,
Joseph Sawle.
Bossiney,
John Manley,
William Hooker.
Ives, (St.)
James Praed,
John Pitt.
Fowey,
John Hicks,
George Granville.
Germans (St.)
Henry Fleming,
John Anstis.
Michael (St.)
Renatus Bellot,
Francis Basset.
Newport,
Sir Nicholas Morrice,
John Spark.
Maxes, (St.)
Sir Joseph Tredenham,
John Tredenham.
Callington,
Sir William Coryton,
Samuel Rolle.
Cumberland,
Gilfred Lawson,
—— Musgrave.
Carlisle,
Christopher Musgrave,
—— Stanwicks.
Cockermouth,
Thomas Lamplugh,
James Stanhope.
Derbyshire,
Thomas Coke,
John Curzon.
Derby Town,
John Harper,
Thomas Stanhope.
Devonshire,
William Courtenay,
Robert Rolle.
Exeter,
Sir Edward Seymour,
John Snell.
Totness,
William Seymour,
Thomas Coulson.
Plymouth,
Charles Trelawney,
John Woolcomb.
Okehampton,
Sir Simon Leech,
John Northmore.
Barnstaple,
Nicholas Hooper,
Arthur Champneys.
Plymton,
Richard Edgecumbe,
Richard Hele.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Tavistock,
Henry Manaton,
James Bulteel.
Ashburton,
Sir Thomas Leare,
Richard Reynell.
Clifton,
Nathaniel Herne,
Frederick Herne.
Boralston,
Peter King,
William Cooper.
Tiverton,
Robert Burridge,
Thomas Bere.
Dorsetshire,
Thomas Strangeways,
Thomas Chaffin.
Pool,
Sir William Phippard,
William Jolliff.
Dorchester,
Sir Nathaniel Napier,
Nathaniel Napier.
Lyme-Regis,
Henry Henley,
John Burridge.
Weymouth,
Anthony Henly,
Henry Thynne.
Melcomb-Regis,
Charles Churchil,
George St. Loe.
Bridport,
Richard Bingham,
Alexander Pitfield.
Shaftsbury,
Sir John Cropley,
Edward Nicholas.
Wareham,
Sir Josias Child,
Thomas Erle.
Corfcastle,
John Banks,
Richard Fownes.
Durham County,
Sir William Bowes,
Sir Robert Eden.
Durham City,
Sir Henry Bellesis,
Thomas Conyers.
Essex,
Sir Charles Barrington,
Sir Francis Masham.
Colchester,
Sir Isaac Rebow,
Sir Thomas Cook.
Malden,
William Fytche,
John Comyns.
Harwich,
SirThomas Daval,
John Ellis.
Gloucestershire,
John Howe,
Maynard Colchester.
Gloucester City,
John Hanbury,
John Tryre.
Cirencester,
William Masters,
Charles Cox.
Tewksbury,
Richard Dowdeswell,
Edmund Bray.
Herefordshire,
Sir John Williams,
Henry Gorges.
Hereford City,
Thomas Foley,
James Bridges.
Leominster,
Lord Coningesby,
Edward Harley.
Weobly,
Henry Cornwal,
Thomas Price.
Hertfordshire,
Thomas Halsey,
Ralph Freeman.
St. Albans,
George Churchill,
John Gape.
Hertford Town,
Charles Cæsar,
Richard Gulston.
Huntingtonshire,
John Dryden,
William Naylor.
Huntington Town.
Anthony Hammond,
Lord Orrery.
Kent,
Sir Thomas Hales,
Sir Francis Lee.
Canterbury,
George Sayer,
Henry Lee.
Rochester,
Edward Knatchbull,
William Cage.
Maidstone,
Heneage Finch,
Sir Robert Marsham.
Queenborough,
Robert Crawford,
Thomas King.
Lancashire,
Richard Ashton,
Richard Bold.
Preston,
Sir Cyril Wyche,
Charles Stanley.
Lancaster,
Sir William Lowther,
Robert Heysham.
Newton,
Thomas Leigh,
John Ward.
Wygan,
Sir Roger Bradshaigh,
Orlando Bridgman.
Clitheio,
Thomas Stringer,
Ambrose Pudsey.
Liverpool,
William Clayton,
Thomas Johnson.

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Leicestershire,
John Verney,
John Wilkins.
Leicester Town,
Sir George Beaumont,
James Winstanley.
Lincolnshire,
Lewis Dymock,
Sir John Thorold.
Lincoln City,
Sir John Thorold,
Sir Thomas Meres.
Boston,
Peregrine Bertie,
Edward Irby.
Great Grimsby,
Arthur Moore,
John Chaplin.
Stamford,
William Cecil,
Charles Bertie.
Grantham,
Sir William Ellys,
Richard Ellys.
Middlesex,
Warwick Lake,
Hugh Smithson.
Westminster,
Sir Walter Clarges,
Thomas Cross.
London,
Sir John Fleet,
Sir William Pritchard,
Sir Francis Child,
Sir Gilbert Heathcote.
Monmouthshire,
John Morgan,
Sir John Williams.
Monmouth Town,
John Williams.
Norfolk,
Sir John Holland,
Sir Jacob Astley.
Norwich.
Thomas Blofield.
Lyn Regis,
Sir Charles Turner,
Robert Walpole.
Great Yarmouth,
Benjamin England,
John Nicholson.
Thetford,
Edmund Soame,
Robert Benson.
Castle Rising,
Sir Thomas Littleton,
Horatio Walpole.
Northamptonshire,
Sir Justinian Isham,
Thomas Cartwright.
Peterborough,
Sidney Wortley,
Gilbert Dolben.
Northampton Town,
Sir Matthew Dudley,
Barth. Tate.
Brackley,
Charles Egerton,
John James.
Higham Ferrers,
Thomas Wentworth.
Northumberland,
Sir Francis Blake,
Bertram Stote.
Newcastle upon Tine,
Sir Henry Liddel,
William Carr.
Morpeth,
Sir John Delaval,
Emanuel Scroop How.
Berwick upon Tweed,
Samuel Ogle,
Jonathan Hutchinson.
Nottinghamshire,
Sir Francis Molineux,
Jervas Eyre.
Nottingham Town,
William Pierrepoint,
George Gregory.
East Retford,
Sir Willough. Hickman,
Will. Levinz.
Newark,
Sir Matthew Jennison,
James Saunderson.
Oxfordshire,
Sir Robert Jenkinson,
Sir Edward Norreys.
Oxford University,
Sir William Whitlock,
Will. Bromley.
Oxford City,
Thomas Rowney,
Francis Norreys.
Woodstock,
James Bertie,
Sir William Glynn.
Banbury,
Charles North.
Rutlandshire,
Sir Thomas Mackworth,
Richard Halford.
Salop County,
Richard Corbet,
Roger Owen.
Salop Town,
John Kynaston,
Richard Mytton.
Bridgnorth,
Sir Humphrey Briggs,
Sir Edward Acton.
Ludlow,
Sir Thomas Powys,
Francis Herbert.
Wenlock,
Sir William Forester,
George Weld.
Bishop's Castle,
Henry Bret,
Charles Mason.
Somersetshire,
Sir Philip Sydenham,
Nathaniel Palmer.
Bristol,
Sir William Daines,
Robert Yate.
Bath,
William Blaithwait,
Alexander Popham.
Wells,
William Coward,
Henry Portman.
Taunton,
Sir Francis Warre,
Edward Clarke.
Bridgwater,
Sir Thomas Wroth,
George Balch.
Minehead.
Alexander Lutterell,
Sir Jacob Bancks.
Ilcester,
Sir Francis Wyndham,
James Anderton.
Milbourn,
Sir Thomas Travell,
John Hunt.
Southampton County,
George Pitt,
Richard Norton.
Winchester,
William Powlet,
Geo. Rodney Bridges.
Southampton Town,
Adam Cardonnel,
Frederick Tilney.
Portsmouth,
Sir George Rook,
William Gifford.
Yarmouth,
Henry Holmes,
Anthony Morgan.
Petersfield,
Robert Mitchell,
Richard Marks.
Newport,
Lord Cutts,
William Stephens.
Stockbridge,
Anthony Barnaby,
Henry Killegrew.
Newton,
John Leigh,
Thomas Hopson.
Christ's Church,
William Ettricke,
Francis Gwynn.
Limyngton,
Thomas Dore,
Paul Burrard.
Whitchurch,
Richard Woollaston,
John Shrimpton.
Andover,
John Smith,
Francis Shepheard.
Staffordshire,
Henry Paget,
Edward Bagot.
Litchfield,
Sir Michael Biddulph,
Richard Dyot.
Stafford Town,
Walter Chetwyn,
Thomas Foley.
Newcastle under Line,
John Crew Offley,
Rowland Cotton.
Tamworth,
John Girdler,
Thomas Guy.
Suffolk,
Lord Dysert,
Sir Dudley Cullum.
Ipswich,
John Bence,
Charles Whitaker.
Dunwich,
Sir Charles Bloys,
Robert Kemp.
Orford,
Sir Edmund Bacon,
Sir Edward Turner.
Aldborough,
Sir Henry Johnson,
William Johnson.
Sudbury,
Sir Jervas Elwys,
George Dashwood.
Eye,
Spencer Compton,
Sir Joseph Jekyll.
Edmund's Bury,
Sir Thomas Felton,
Sir Robert Davers.
Surrey,
Sir Richard Onslow,
Leonard Wessel.
Southwark,
Charles Cox,
John Cholmondeley.
Bletchingly,
Sir Robert Clayton,
John Ward.
Ryegate,
Sir John Parsons,
Stephen Harvey.
Guilford,
Denzil Onslow,
Morgan Randyll.
Gatton,
Maurice Thompson,
Thomas Onslow.
Hastemere,
George Vernon,
Lewis Oglethorp.
Sussex,
Henry Lumley,
Thomas Pelham.
Chichester,
John Miller,
William Elson.
Horsham,
Henry Cowper,
John Wicker.
Midhurst
John Lukener,
Laurence Alcock.
Lewes,
Sir Nicholas Pelham,
Richard Payne.
Shoreham,
Nathaniel Gould,
John Perry.
Bramber,
John Asgill.
Steyning,
Charles Goring,
Sir Edward Hungerford.
Grinstead,
John Conyers,
John Toke.
Arundel,
Edmund Drummer,
Carew Weekes.
Warwickshire,
Sir John Mordaunt,
Sir Charles Shuckburgh.
Coventry,
Sir Christopher Hales,
Thomas Grey.
Warwick Town,

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Francis Greville,
Algernoon Greville.
Westmoreland,
Sir Christ. Musgrave,
Henry Grahme.
Appelby,
Jervas Pierrepoint,
James Grahme.
Wiltshire,
Richard Howe,
Robert Hyde.
New Sarum,
Charles Fox,
Robert Eyre.
Wilton,
Sir John Hawles,
John Gauntlet.
Downton,
Sir James Ash,
Sir Charles Duncomb.
Hindon,
Sir James Howe.
Hytesbury,
William Monson,
Edward Ash.
Westbury,
Robert Bertie,
Henry Bertie.
Calne,
Sir Charles Hedges,
Henry Chivers.
Devizes,
John Methuen.
Chippenham,
Lord [illegible],
James Montagu.
Malmsbury,
Edward Pauncefort,
Thomas Boucher.
Cricklade,
Thomas Webb,
Samuel Barker.
Bedwin,
James Bruce,
Francis Stonehouse.
Luggershall,
Edmund Webb,
John Webb.
Old Sarum,
William Harvey,
Charles Mompesson.
Wootton Basset,
Henry St. John,
Henry Pinnel.
Marlborough,
Robert Bruce,
Edward Jeffreys.
Worcestershire,
Sir John Packington,
William Walsh.
Worcester City,
Samuel Swift,
Thomas Wyld.
Droitwich,
Charles Cocks,
Edward Foley.
Eversham,
Hugh Parker,
John Rudge.
Bewdley,
Salway Winnington,
Yorkshire,
Lord Hartington,
Sir John Kaye.
York City,
Tobias Jenkins,
Sir William Robinson.
Kingston,
Sir William St. Quintin,
William Masters.
Knaresborough,
Robert Byerly,
Christopher Stockdale.
Scarborough,
John Hungerford,
William Thompson.
Rippon,
Sir William Hustler,
John Sharpe.
Richmond,
Thomas Yorke,
James Darcy.
Heydon,
Henry Guy,
Anthony Duncomb.
Boroughbridge,
Sir Henry Goodricke,
Sir Bryan Stapleton.
Malton,
Sir William Strickland,
William Palmes.
Thirsk,
Sir Godfrey Copley,
Sir Thomas Frankland.
Aldborough.
Robert Monckton,
William Jessop.
Beverly,
Sir Charles Hotham,
William Gee.
North-Allerton,
Robert Dormer,
John Aislaby.
Pontefract,
Sir John Bland,
William Lowther.

CINQUE-PORTS.

Hastings,
William Ashburnham,
John Pulteney.
Dover,
Matthew Aylmer,
Philip Papillon.
Sandwich,
Sir Henry Furness,
John Michell.
Hythe,
Sir Philip Boteler,
John Boteler.
New Romney,
Sir Benjamin Bathurst,
John Brewer.
Rye,
Thomas Fagge,
Edward Southwell.
Winchelsea,
George Clark,
John Hayes.
Seaford,
Sir William Thomas,
William Lowndes.

WALES.

Anglesea,
Lord Bulkeley.
Beaumaris,
Coningesby Williams.
Brecon County,
John Jeffreys.
Brecon Town,
Sir Jeffrey Jeffreys.
Cardiganshire,
Sir Humph. Mackworth,
Cardigan Town,
Henry Lloyd.
Carmarthenshire,
Griffith Rice
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
Thomas Bulkeley.
Carnarvon Town.
Sir John Wynn.
Denbighshire,
Sir Richard Middleton.
Denbigh Town,
Edward Bereton.
Flintshire,
Sir Thomas Hanmore.
Flint Town,
Thomas Mostyn.
Glamorgan,
Thomas Mansel.
Merioneth,
Richard Vaughan.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
John Vaughan.
Pembrokeshire,
Sir Arthur Owen.
Pembroke Town,
John Meyrick.
Haverford west,
John Laughern.
Radnor County,
Thomas Harley
Radnor Town,
Robert Harley.

ROBERT HARLEY, Speaker.

Mr. Harley chosen Speaker.] Oct. 21. Her majesty, being seated on the throne, attended with her officers of state, commanded the Usher of the Black Rod to let the Commons know, It was her majesty's pleasure, that they attend her presently, in the house of peers.—Who being come, they presented Robert Harley*, esq. whom they had chosen to be their Speaker, for her majesty's approbation. And, after a short speech made by him to her majesty, desiring her majesty to excuse him from that service, the Lord Keeper, by her majesty's command, acquainted the house of commons, That her majesty was pleased to approve of the choice they had made, and did allow of Mr. Harley to be their Speaker.

The Queen's Speech on opening the Session.] Then her majesty made the following Speech to both houses:

"My lords and gentlemen; It is with great satisfaction I meet this parliament, which I have summoned to assist me in carrying on the just and necessary war, in which we are engaged. I have called you together as early as was consistent with your convenience in coming out of your several countries; and I assure myself of such evidences of your affection to me, and of your zeal for our common cause, as will not only give spirit and forwardness to our own preparations, but such example and encouragement to our allies, as, by God's blessing, cannot fail of a good effect, for the advantage of the whole confederacy.—I have met with so many expressions of joy and satisfaction in all the countries through which I have lately had occasion to pass, that I cannot but look upon them as true measures of the duty and affection of the rest of my subjects.

"Gentlemen of the house of commons; I must desire you to grant me such Supplies, as will enable me to comply both with our parti-

* Mr. Harley had been Speaker to the last Parliament. See vol. 5, p. 1232 note.

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cular Treaties and Engagements, already made, and such others as may be necessary for the encouragement of our allies, and the prosecuting the war, where it shall most sensibly affect our enemies, and be most effectual for disappointing the boundless ambition of France.—And, that my subjects may the more cheerfully bear the necessary taxes, I desire you to inspect the Accounts of all the public Receipts and Payments; and, if there have been any Abuses or Mismanagements, I hope you will detect them; that the offenders may be punished, and others be deterred by such examples from the like practices.—I must observe to you, with some concern, that the funds given by the last parliament have, in some measure, fallen short of the sums proposed to be raised by them; and though I have already paid, and applied to the public service, the 100,000*l.* which I promised to the last parliament, yet it has not supplied that deficiency.

"My lords and gentlemen; I cannot, without much trouble, take notice to you of the disappointment we have had at Cadiz: I have not yet had a particular account of that enterprize, nor of all the difficulties our forces may have met with there; but I have had such a representation of disorders and abuses committed at Port St. Marie's, as hath obliged me to give directions for the strictest examination of that matter.—I am earnestly desirous, for all our sakes, that this may prove a short session: however, I hope you will find time to consider of some better and more effectual method to prevent the exportation of Wool, and to improve that manufacture, which is of great consequence to the whole kingdom; on my part, nothing shall be omitted for its encouragement.—I am firmly persuaded, that the love and good affection of my subjects is the surest pledge of their duty and obedience, and the truest and justest support of the throne: And as I am resolved to defend and maintain the Church as by law established, and to procect you in the full enjoyment of all your rights and liberties; so I rely upon your care of me. My interests and yours are inseparable; and my endeavours shall never be wanting, to make you all safe and happy."

The Lords' Address thereon.] The Lords presented her majesty with the following Address:

"We, your majesty's most dutiful and loyal subjects, the lords spiritual and temporal in parliament assembled, do, with all dutiful acknowledgments, return your majesty our most humble thanks, for your gracious speech to both houses of parliament; and take leave, on this occasion, to congratulate the prosperous and glorious success with which it has pleased God to bless your majesty's arms, in conjunction with your allies, under the command of the earl of Marlborough; as also for the other successes of your majesty's allies in Germany and Italy; and for the prosperous condition the trade of the nation is now in, which we acknowledge is chiefly owing to your majesty's great wisdom and conduct. We humbly take leave to assure your majesty, that we shall always be ready to assist you, to our utmost, in the prosecution of this just and necessary war.—We likewise return your majesty our most humble thanks, for the resolution you are pleased to express, to maintain and defend the Church as by law established, and to protect us in the full enjoyment of our rights and liberties: And we further presume to assure your majesty, that we shall be ready, on all occasions, to support and defend your royal person and government, with all possible zeal and duty."

The Queen's Answer.] Her majesty gave this Answer:

"My lords; Your Address is very acceptable to me: I thank you kindly for your congratulations; and I hope you will have frequent occasions of renewing them."

The Commons' Address.] The Commons agreed upon the following Address:

"Most gracious sovereign; We, your majesty's most dutiful and loyal subjects, the commons in parliament asssembled, do beg leave to lay before your majesty our most humble and hearty thanks, for your most gracious speech from the throne; which gives us such instances of your majesty's tender concern for your people, and of your intire confidence in their affections, as must engage them to make your majesty the utmost returns of duty and gratitude.—It is great condescension in your majesty, to take notice, in so public a manner, of the expressions of joy and satisfaction, with which your majesty was received in all the countries, through which you had occasion lately to pass: all your subjects have already received so many benefits under the influence of your majesty's happy government, that your majesty must have met with the like in any other part of your dominions, that you had honoured with your royal presence.—The late disappointment at Cadiz does the more affect us, because it gives your majesty so much trouble; but this misfortune cannot make us forget that the protection and security of our trade, the vigorous support of your majesty's allies, and the wonderful progress of your majesty's arms, under the conduct of the earl of Marlborough, have signally retrieved * the an-

* "The word 'retrieved,' in this Address, implying, that the honour of the nation had been lost, occasioned a warm debate. All, who had a just regard for king William, insisted upon the word 'maintained' instead of it, alledging, that 'retrieved' was a reflection on the late king's memory, who, instead of losing, had carried the honour of the nation farther than had been done in any reign before his: that to him they owed their preservation, their safety, and even the queen's being on the throne: that he had designed and formed that great confederacy, at the head of which her majesty was now set. In opposition to this it

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cient bonour and glory of the English nation.—After your majesty's repeated assurances we neither doubt of the full enjoyment of all our rights and liberties, nor of your majesty's defending and maintaining the church, as by law established. Your majesty has been always a most illustrious ornament to this church, and have been exposed to great hazards for it; and therefore we promise ourselves, that, in your majesty's reign, we shall see it perfectly restored to its due rights and privileges, and secured in the same to posterity, which is only to be done, by divesting those men of the power, who have shewn, they want not the will, to destroy it.—The prospect of these blessings, and your majesty's desire, to have the accounts of the public receipts, and payments, inspected, and to have any abuses and mismanagements thereof punished, will very much endear your majesty to your people, and encourage us most chearfully to assist your majesty with those supplies, that may effectually enable your majesty to make good such alliances, as shall be necessary to prosecute the war, where it shall most sensibly affect your enemies, and thereby disappoint the boundless ambition of France.

"Your majesty may safely rely upon the care of your faithful commons. The value, you are pleased to set upon the love and affection of your subjects, is the highest obligation, that can be laid on them, to give your majesty pledges thereof, in their duty and obedience: they are, and shall always be, sensible, that your majesty's interests, and theirs, are inseparable; and, as they gratefully acknowledge your majesty's great designs, to make them safe and happy, so their prayers, and sincerest endeavours, shall never be wanting, to make your majesty's reign more prosperous, and more glorious, than any of your majesty's royal predecessors."

The Queen's Answer.] To which her majesty, at the same time, returned her Answer, as follows:

"Gentlemen, I thank you very kindly for the many marks of your duty and affection expressed in this address. Nothing can be a greater satisfaction to me than an entire confidence between me and my subjects."

Sir John Packington's Complaint against the Bishop of Worcester.] November 18. Sir John

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was urged, that, during his reign, things had been conducted by strangers, and trusted to them; and that a vast treasure had been spent in unprofitable campaigns in Flanders. The Partition Treaty, and every thing else, with which his reign could be loaded, was brought into the account; and the keeping of the word 'retrieved,' in the address, was carried by a majority of 180 voices against 80; all who had any favour at court, or hoped for any, voting for it.

"Mr. Walsh, at that time knight of the shire for Worcestershire (called by Dryden the greatest critic of the age) composed, on this occasion, the following verses, in a poem, called 'The Golden Age,' in allusion to Virgil's fourth eclogue:

'Now all our factions, all our fears shall cease,
'And Tories rule the promis'd land in peace;
'Malice shall die, and noxious poison fail; [rail,
'Harley shall cease to trick, and Seymour cease to
'The lambs shall with the lions walk unhurt,
'And Halifax with How meet civilly at court.
'Vice-roys †, like providence, with distant care,
'Shall govern kingdoms, where they ne er appear.
'Pacific admirals, to save the fleet,
'Shall fly from conquest, and shall conquest meet.
'Commanders shall be praised at William's cost,
'And honour be retriev'd before 'tis lost.'

"The strength of the Tory-party, in the house of commons, appeared not only from this, but also from all the controverted elections being determined in their favour, with such an open partiality, that it shewed the party to be resolved upon every thing that might serve their ends. Of this there were two remarkable instances. The one was of the borough of Hindon near Salisbury; in which, upon a complaint of bribery, the proof was so full and clear, that they ordered a bill to disfranchize the town for that bribery; and yet, because the bribes were given by a man of their party, they would not pass a vote on him as guilty of it; so that a borough was voted to lose its right of electing, because many in it were guilty of a corruption, in which no man appeared to be an actor. The other was of more importance. Mr. John How stood for knight of the shire for Gloucestershire, and had drawn a party in that county to join with him in an Address to the queen, in which reflections were made on the danger and ill usage, which her Majesty had gone through in the former reign. This Address was received by the queen in so particular a manner, that it looked like owning the contents thereof to be true; but she made such an excuse for this, when the offence it gave was laid before her, that probably she was not acquainted with the matter of the Address, when she so received it. Upon this, great opposition was made to Mr. How's election; and, when it came to the poll, it appeared that he had lost it. The sheriff was then moved for a scrutiny, to examine whether all those, who had sworn, that they were freeholders of forty shillings a year, had sworn true. By the act of parliament the matter was referred to the parties oath, and their swearing falsely was declared perjury; therefore such, as had sworn falsely, were liable to a persecution; but, by all laws, an oath is looked upon as an end of controversy, till he, who swore, is convicted of perjury; and the sheriff, being an officer named by the court, if he had a power to review the poll, this put the election of counties wholly in the power of the crown. Yet, upon this occasion, the heat of a party prevailed so far, that they voted Mr. How duly elected." Tindal.

† Earl of Rochester.

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Packington exhibited a Complaint against the bishop of Worcester, and Mr. Lloyd his son, which he reduced to the following Heads:

I. "That soon after the last parliament rose, the bishop of Worcester took upon him to send to me to desist from standing to be elected knight for that county, and to threaten me, that if I would not desist, he should think himself obliged to speak against me to his clergy.

II. "He sent some letters himself, and his secretary sent others to several of his clergy, with directions to make what interest they could against me in their several parishes, and where they could not prevail with such who voted singly for me in the last election, to give a vote for one or both the other candidates, they should desire them to stay at home; and in order to this, his lordship sent them copies of the poll of their respective parishes.

III. "He aspersed me to his clergy, branding me and my ancestors with several vices; and at his confirmation and visitations solicited his clergy to vote against me, representing me as very unfit to serve in parliament, and threatening them with his displeasure, if they did not vote against me.

IV. "He aspersed me and my ancestors to several of the laity, who were his tenants, and threatened them, that if they would not vote against me, they should never renew any estate under him, and that he would set such marks upon them, that his successors should not suffer them nor their children to renew any more.

V. "Mr. Lloyd, the bishop's son, aspersed me, and gave scandalous characters of me to several freeholders, whom he solicited to vote against me, and told them I voted for bringing in a French government.

VI. "The bisbop's secretary aspersed me to several freeholders in the like manner, representing me as unfit to sit in the House, threatening them with the bishop's displeasure; and said, they might as well vote for the prince of Wales as for me."

All these Particulars were supported by Evidence at the bar of the House, and by the following Letters under the bishop's own hand:

"Sir; *Hartlebury, July* 29, 1702.

"I think I have more reason to hope for something of consideration from you, than from most others of the clergy of this diocese, and something also more from the freeholders in your parish, than in most other parts of the county; and therefore I thought I had reason to take it ill of your neighbours, that they should give their votes as they did, for the chusing of sir John Packington to be knight of the shire, when, in order to that very election, he had published two libels, full of horrible lyes, against myself, and several others of the bishops, that had never given him the least provocation. This grieved me much, but yet I had wherewith to comfort myself, in believing that those libels might not have come to their knowledge: though as I since understand great care was taken by sir John's agents to publish them all over your neighbourhood. But now, since I understand there is a third libel come abroad, which is written against me in particular. The declared cause of it is not only my opposing sir John Packington's election, which, after my coming into the country, and finding libels published among my tenants by his servants, I sent him word I thought myself obliged to do, unless he would be pleased to desist from standing, as I earnestly desired him to do more than once: But this author hath found, that I was the writer of a printed half-sheet, called 'The Character of a Churchman,' and that this was written against sir John Packington for hindering his election; and for this he scourges me most unmercifully, with such a tongue, as that St. James describes. For that 'Character 'of a Churchman,' I do declare to you in the presence of God, that I neither writ it nor know the author of it; but I certainly know, that sir John Packington is not once mentioned in it, nor had I at the time when that was printed any breach with sir John Packington, nor occasion to do this with respect to the election, for it was printed before I came to London, and that was before the dissolution of the former parliament, which if I had foreseen, I had certainly staid longer in the country. After all this, it is true that I sent a great number of those half-sheets into the country, as I did of such other small things, upon several accounts. They were sent chiefly on the account of our unhappy differences in convocation, and for promoting the most pious designs of reformation. On this last account it was that I sent this 'Character of a Churchman,' without making any reflection upon any particular person. I did indeed know, that the devil would be mad at me for it, and now I have found the effects of his wrath: he hath set a son of his to write against me, which I thank God is the worst he can do. This account I have given you of this third libel, in hopes it may have some effect upon you and your neighbour Mr. Hodge, to whom I desire you to shew what I have written. I hope you will both of you consider, whether any such promise as that you have made to that gentleman, to make him your representative in parliament, can oblige you to any thing else but repentance of your having made such a promise, and to bring forth fruits meet for repentance. For my part, I leave this upon your souls, desiring you both to do in this matter as you think you can best answer it to God at the great day, which I doubt not you believe, and expect as well as I. I pray God direct you. I am, your faithful friend and diocesan,

W. WORCESTER."

"Sir, *July* 27, 1702.

"You cannot but have heard, and probably have seen how the bishops of this church in general, and 5 or 6 of them in particular, have been abused with impudent lyes in two libels that were published by sir John Packington

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almost a year since, in order to his last election. At that time I had not given him the least provocation; and for the other abused bishops, few of them knew his face. Since that time, finding at my return from London, where I was all the while, he was libelling me in the country, that he had published these libels, some of them with his own hands, and the rest by his agents, I could not but think myself obliged by all honest ways to oppose his election, if he would stand; which I sent to him 3 times to let him know, and to desire he would forbear. —Hereupon there comes out a third libel against me, which I have only seen, but could not get a copy of it. I never saw any thing wrote with such a furious rage of railing, and scoffing, and lying; which I thank God, can do me no hurt, nor will it do him service, if I may so call it, in promoting his election, which I think would be the greatest hurt that could happen to him.—It is for the preventing of this that I writ to my friends, earnestly to desire them to get what votes they can for Mr. Bromley and Mr. Walsh; and to keep away as many as they can of them that will vote for sir John Packington.—Your diligence in this matter will lay a very great obligation upon, Sir,

Your faithful friend, and Diocesan,
W. WORCESTER."

Upon a full hearing of the whole matter, the house came to the following Resolutions:

"Resolved, *nem. con.* That Sir John Packington has by Evidence fully made out the charge which he exhibited against the lord bishop of Worcester.

"Resolved, *nem. con.* That Sir John Packington has by Evidence fully made out the charge against Mr. Lloyd, the said lord bishop's son.

"Resolved, That it appears to this house, that the proceedings of William lord bishop of Worcester, his son, and his agents, in order to the hindering the election of a member for the county of Worcester, has been malicious, unchristian, and arbitrary, in high violation of the Liberties and Privileges of the Commons of England."

"Resolved, That an humble Address be presented to her Majesty, that she will be graciously pleased to remove William lord bishop of Worcester from being Lord Almoner to her Majesty."

"Ordered, That the said Resolution, and Address, be presented to her Majesty by such members of this house as are of her Majesty's most honourable privy-council. 2. That the further consideration of the matter relating to the lord bishop of Worcester, be adjourned till this day se'nnight. 3. That Mr. Attorney-General do prosecute Mr. Lloyd, the lord bishop of Worcester's son, for the said offences, after his privilege as a member of the lower house of convocation is out.

Nov. 20. Mr. Comptroller reported to the house, that their Resolution and Address to her Majesty for the removing William lord bishop of Worcester, from being Lord Almoner to her Majesty, had been presented to her Majesty; and that her Majesty was pleased to give this most gracious Answer:

"I am very sorry that there is occasion for this Address against the bishop of Worcester: I shall order and direct, that he shall no longer continue to supply the place of Almoner, but I will put another in his room to perform that office."

Resolved, That the most humble Thanks of this house be returned to her Majesty, for her Majesty's most gracious Answer to their Address relating to William lord bishop of Worcester.

Ordered, That Mr. Comptroller of her Majesty's household, do return the said most humble thanks of this house to her Majesty.

Nov. 21. The Speaker acquainted the house, that there had been with him that morning, the prolocutor of the lower house of convocation, and also the dean of Canterbury, arch-deacon Ottley, and Mr. Moor, and had brought him the following order:

Nov. 20, Ordered, "That the prolocutor, the dean of Canterbury, arch-deacon Ottley, and Mr. Moor, do attend Mr. Speaker of the honourable house of Commons, and return our most humble thanks to him, and to that honourable house, for the great favour to the Church and Convocation, which they had on all occasions been pleased to express; and particularly for that late regard which they of themselves, without suggestion, were pleased to have to the privilege of this house, in the case of one of our members, who had the misfortune to fall under their displeasure."

Upon this, the house passed a Resolution, That they would upon all occasions, assert the just rights of the Lower House of Convocation.

The Lords, alarmed at these proceedings of the Commons, against a member of their house, agreed upon the following Address to the queen, 'That it was the undoubted right of every lord 'of parliament; and of every subject of Eng-'land, to have an opportunity of making his 'defence, before he suffers any sort of punish-'ment; and therefore humbly desired her ma-'jesty, that she would be pleased not to re-'move the lord bishop of Worcester from the 'place of Lord Almoner, nor to show any mark 'of her displeasure towards him, till he be 'found guilty of some crime by due course of 'law.' This Address being presented to the queen, she returned answer, 'That she agreed, 'that every peer and lord of parliament, and 'indeed every other person, ought to have an 'opportunity of being heard to any matters ob-'jected against him, before he be punished. 'That she had not yet received any complaint 'of the bishop of Worcester, but she looked 'upon it as her undoubted right to continue 'or displace any servant attending upon her 'own person, when she should think it proper.' The Lords, upon this Answer, resolved the same day unanimously, 'That no lord of their house 'ought to suffer any sort of punishment by any

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'proceedings of the house of Commons, otherwise than according to the known and ancient 'rules and methods of parliament.'

A Bill for a Provision for Prince George.] Nov. 21. Mr. Secretary Hedges delivered to the Commons a Message signed by the queen, importing, 'That her majesty considering, that 'there was but a very small provision made for 'the prince her husband, if he should survive her, 'and that she was restrained from increasing 'the same by the late act of parliament for 'settling her revenue, thought it necessary to 'recommend the making a further provision for 'the prince to their consideration.' The prince was many years older than the queen, and was troubled with an asthma, that every year had ill effects upon his health, and had brought him into great danger this winter; yet the queen thought it became her to provide for all events. The Commons having taken her message into consideration, Mr. How moved, That the yearly sum of 100,000*l.*, should be settled on the prince, in case he should survive the queen; and this was seconded by those who knew how acceptable the motion would be to the queen, though it was double of what any queen of England ever had in jointure; so that it passed without any opposition. But, while it was passing, a motion was made upon a clause in the act, that limited the succession to the house of Hanover, which provided against strangers, though naturalized, being capable to hold any employments. This plainly related only to those, who should be naturalized in a future reign, and had no respect to such as were already naturalized, or should be naturalized, during the present reign. It was, however, proposed as doubtful, whether, when that family might reign, all, who were naturalized before, should not be incapacitated by that clause from sitting in parliament, or holding employments; and a clause was offered to exempt the prince from being comprehended in that incapacity. Against this two objections lay; one was, that the Lords had resolved by a Vote (as will hereafter appear) to which the greater number had set their hands, that they would never pass any money-bill sent up to them by the Commons, to which any clause was tacked, that was foreign to the bill. They had done this, to prevent the Commons from joining matters of a different nature to a money-bill, and then pretending that the Lords could not meddle with it; for this was a method to alter the government, and bring it intirely into their own hands; by this means, when money was necessary for preserving the nation, they might force, not only the lords, but even the crown itself, to consent to every thing they proposed, by tacking it to a money-bill. It was said, that an incapacity for holding employments, and for sitting in the house of lords, were things of a different nature from money; so that this clause seemed to many to be a tack: while others thought it was no tack, because both parts of the act related to the same person. The other objection was, That this clause seemed to imply, that persons already naturalized, and in possession of the right of natural-born subjects, were to be excluded in the next reign; though all people knew, that no such thing was intended, when the act of succession passed. Great opposition was made, for both these reasons, to the passing this clause; but the queen pressed it with the greatest earnestness, that she had ever yet shewn in any thing whatever. She thought it became her as a good wife, to have the act passed, in which she might be the more zealous, because it was not thought adviseable to move for an act, that should take prince George into a partnership of the regal dignity. This matter raised a great heat in the house of lords. Those, who had been advanced by the late king, and were in his interests, did not think it became them to consent to this, which seemed to be a prejudice, or, at least, a disgrace to those, whom he had raised.*

Protest thereon.] But the court managed the affair so dexterously, that the bill passed with the clause, though it was protested against by several lords.

January 19. Upon a Report from the Committee of the whole house, on the bill 'to enable her majesty to settle a Revenue upon the 'prince of Denmark, in case he survived her,' that they had gone through the bill, and had left out one clause, which enacted, that, in case of the prince's surviving, he might be capable to be of the privy-council, a member of this house, or to enjoy any office, the grants herein mentioned, or any other, notwithstanding the act of succession in the 12th of the late king. And the question being put, Whether to agree with the committee in leaving out this clause? It was resolved in the negative.

"Dissentient."

"1. We do dissent from this clause, because we conceive this is a bill of aid and supply; and that this clause is altogether foreign to, and different from the matter of the said bill: and that the passing of such a clause is therefore unparliamentary, and tends to the destruction of the constitution of this government.

"2. Because we conceive, that a parliamentary expedient might have been found, whereby his royal highness might, by an unanimous consent, have all the advantages designed him by this bill, without the lords being obliged to depart from what we conceive to be their undoubted right.

"3. Because we conceive, that this clause was not necessary to enable his royal highness to enjoy the benefits of the said grants.

"4. Because that the clause, which pretends to capacitate his royal highness to enjoy his peerage, 'Notwithstanding the act for the 'further limitation of the crown, and better se-'curing of the rights and liberties of the sub-'ject,' and which makes no provision for other peers, under the same circumstances, may tend much to their prejudice. (Signed.) Torring-

* Burnet. Tindal.

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ton, Say and Seal, Sommers, Portland, Manchester, Kingston, Jo. Litch. and Coven. Ossulstone."

We dissent from the clauses relating to the grants:

"1. Because the said grants are not laid before the house (though desired), by which we are ignorant upon what considerations the same were granted.

"2. Because we conceive, that the saving clauses are so far from having any relation to his royal highness, that if they signify any thing (without any respect to him) they prefer their payment before his. (Signed.) Somerset, Devonshire, Tho. Cantuar. Huntingdon, Say and Seal, W. Worcester, Rich. Peterburg', Gi. Sarum, Radnor, Jo. Chichester, Jo. Bangor, Sunderland, Oxford, Bolton, Mahon, Bergavenny, Berkeley of Stratton, Jo. Litch. and Coven. Rivers, Lovelace, Townshend, Herbert, Carlisle, E. M. Tho. Wharton, Essex, Powlet, Rockingham, Stamford."

The Queen's Message relating to the Earl of Marlborough.] Dec. 10. The following message was brought to the house by Mr. Secretary Hedges, signed by the queen herself.

"ANNE *R.* The earl of Marlborough's services to her majesty, and to the public, have been so eminent, both in his command of the army, and in his having established an entire confidence and good correspondence between her majesty and the States-General, that she has thought fit to grant the title of a duke of this kingdom to him, and to the heirs male of his body, and also a pension of 5,000*l.* per annum, upon the revenue of the Post Office, for the support of this honour, during her majesty's natural life. If it had been in her majesty's power, she would have granted the same term in the pension as in the honour; and she hopes you will think it so reasonable in this case, as to find some proper methods for doing it."

The Commons, after the reading of the message, seemed for some time to be in amaze, and kept so long silent, that (it was said) the Speaker stood up, and looked round, to see if any body would speak to it: And at length Mr. S———— having broke the ice, the debate ran very high on the occasion; and amongst others, common fame gave out, that an old member should say, 'That though he had accepted of an employment at court, yet, he never did it with a design that his mouth should be sewed up in that house, when any thing was offered that he thought detrimental to his country'.*

The Commons Address thereon.] Dec. 21. The house at length having weighed this important affair, instead of complying with the message, presented the following Address to her majesty:

"Most gracious sovereign; We your majesty's most dutiful and loyal subjects the Commons in parliament assembled, humbly beg leave to declare our unanimous satisfaction in the just esteem your majesty has been pleased to express of the eminent services performed by the duke of Marlborough, who has not only, by his conduct of the army, retrieved the ancient honour and glory of the English nation, but by his negotiation established an entire confidence and good correspondence between your majesty, and the States-General, and therein vindicated the gentlemen of England, who had, by the vile practices of designing men, been traduced, and industriously represented as false to your majesty's allies, because they were true to the interest of their country.—It is to their inexpressible grief, that your majesty's most dutiful Commons find any instances, where they are unable to comply with what your majesty proposes to them; but they beg leave humbly to lay before your majesty the apprehensions they have of making a precedent for the future alienations of the Revenue of the crown, which has been so much reduced by the exorbitant grants of the last reign, and which has been so lately settled and secured by your majesty's unparalleled grace and goodness.—We are infinitely pleased to observe by your majesty's late gracious acceptance of the duke of Marlborough's services, that the only way to obtain your majesty's favour, is to deserve well from the public; and we beg leave to assure your majesty, that whenever you shall think fit to reward such merit, it will be to the entire satisfaction of your people."

The Queen's Answer.] To which her majesty returned the following Answer:

"I shall always think myself much concerned to reward those who deserve well of me, and of the public: On this account, I bestowed some favours on the duke of Marlborough, and I am glad to find you think they are well placed."*

* Sir Christopher Musgrave did not stick to say, 'I will not derogate from the duke's eminent services, but I think he is very well paid for them;' and then in an invidious manner he reckoned up the profitable employments enjoyed by him and his dutchess." Oldmixon.

* "Great liberty was taken of reflecting upon the queen, as well as the duke, for this transaction; and a satirical piece was handed about, wherein, among other things, it was affirmed, 'That her majesty designed to give one duke all the gold, which the other (Ormond) had brought home from Vigo.'" Tindal.

"As the queen had reason not to be pleased with this balk, so had all good Britons to be offended at the aspersion thrown upon the reign of king William. If there were more Grants in his time than before it, there were more persons who deserved them, and more good things to be granted: Whereas it cannot be said that one mortal, from the Restoration to the Abdication, did deserve the grant of a Brickkiln for his services to his country, as it included the Protestant religion, liberty and property." Oldmixon.

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THE CONTROVERSY BETWEEN THE TWO HOUSES RELATING TO THE BILL FOR PREVENTING OCCASIONAL CONFORMITY*.] There had been a Bill brought in early this session by the Commons, for preventing Occasional Conformity; and though there was a good deal of opposition made to the Bill by some gentlemen of that house, yet it was carried there by a great ma-

* "When those matters were settled, a Bill was brought in by the Tories, against Occasional Conformity, which produced great and long debates: By this Bill, all those who took the sacrament and test (which by the act passed in the year 1672, was made necessary to those, who held offices of trust, or were magistrates in corporations, but was only to be taken once by them) and did after that, go to the meetings of dissenters, or any meeting for religious worship, that was not according to the liturgy or practice of the church of England, where five persons were present, more than the family, were disabled from holding their employments, and were to be fined in 100*l.*, and in 5*l.* a day for every day, which they continued to act in their employments, after their having been at any such meeting: They were also made incapable to hold any other employment, till after one whole year's Conformity to the church, which was to be proved at the quarter session: upon a relapse the penalty and the time of incapacity were doubled: no limitation of time was put in the bill, nor of the way, in which the offence was to be proved; But whereas, the act of the test only included the magistrates in corporations, all the inferior officers or freemen in corporations, who were found to have some interest in the elections, were now comprehended within this bill. The preamble of the bill asserted the Toleration, and condemned all persecution for conscience sake, in a high strain. Some thought the bill was of no consequence, and that, if it should pass into a law, it would be of no effect; but that the Occasional Conformists would become constant ones. Others thought, that this was such a breaking in upon the Toleration, as would undermine it, and that it would have a great effect on corporations; as indeed, the intent of it was believed to be, the modelling elections, and by consequence of the House of Commons.

"On behalf of the bill, it was said, the design of the test act was, that all in office should continue in the communion of the church; that coming only once to the sacrament for an office, and going afterwards to the meetings of dissenters, was both an eluding the intent of the law and a profanation of the sacrament, which gave great scandal, and was abhorred by the better sort of dissenters. Those who were against the bill, said, the nation had been quiet ever since the Toleration, the dissenters had lost more ground and strength by it, than the church; the nation was now engaged in a great war; it seemed therefore unreasonable, to raise animosities at home, in matters of religion, at such a time; and to encourage a tribe of informers, who were the worst sort of men: The fines were excessive; higher than any laid on Papists by law; and since no limitation of time, nor concurrence of witnesses, was provided for in the bill, men would be for ever exposed to the malice of a bold swearer, or wicked servant: It was moved, that since the greatest danger of all was from atheists and papists, that all such as received the sacrament for an office, should be obliged to receive it three times a year, which all were by law required to do; and to keep to their parish church, at least one Sunday a month; but this was not admitted. All, who pleaded for the bill, did in words declare for the continuance of the Toleration, yet the sharpness, with which they treated the dissenters in all their speeches, shewed as if they designed their extirpation. The bill was carried in the House of Commons, by a great majority. The debates held longer in the House of Lords: Many were against it, because of the high penalties. Some remembered the practice of informers, in the end of king Charles's reign, and would not consent to the reviving such infamous methods; All believed, that the chief design of this bill was, to model corporations, and to cast out of them all those, who would not vote in elections for Tories; The Toleration itself was visibly aimed at, and this was only a step to break in upon it. Some thought, the design went yet further, to raise such quarrels and distractions among us, as would so embroil us at home, that our allies might see, they could not depend upon us; and that we, being weakened by the disorders, occasioned by those prosecutions, might be disabled from carrying on the war, which was the chief thing driven at by the promoters of the bill. So that many of the lords, as well as the bishops, agreed in opposing this bill, though upon different views; yet they consented to some parts of it; chiefly, that such as went to meetings, after they had received the sacrament, should be disabled from holding any employments, and be fined in 20*l.*; many went into this, though they were against every part of the bill, because they thought this the most plausible way of losing it; since the House of Commons had of late set it up for a maxim, that the Lords could not alter the fines, that they should fix in a bill, this being a meddling with money, which they thought was so peculiar to them, that they would not let the Lords, on any pretence, break in upon it.

"The lords hereupon appointed a very exact search to be made into all the rolls, that lay in the clerk of the parliament's office, from the middle of king Henry 7's reign, down to the present time: and they found, by some hundreds of precedents, that in some bills the lords began the clauses, that set the fines: and that when fines were set by the commons, sometimes they altered the fines, and at other times, they changed the use, to which they were applied: The report made of this was so full and clear, that there was no possibility of replying

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jority; and on the 2nd of December sent to the Lords for their concurrence. The Lords were so little fond of this bill, that apprehending it, or some other bill they did not wholly like, might one time or other be tacked to a Money-Bill by the Commons, they passed a vote, "That it would be an infringement of the Privilege of their house." When the Bill came to be considered by the Lords, they were pleased to make several Amendments to it, which occasioned several Conferences between the two houses; as follow after the bill, which it is thought expedient to annex, as necessary for the right understanding the matter in question.

THE ACT FOR PREVENTING OCCASIONAL CONFORMITY.

THE BILL AND AMENDMENTS.

The Commons Agreement and Disagreement, to the Amendments made by the Lords to the Bill for Preventing Occasional Conformity, with the Commons Amendments to the Lords Amendments.

The Amendments made by the Lords to the Bill for preventing Occasional Conformity.

December 2, 1702.

Agreed to by the Commons.

AS nothing is more contrary to the profession of the Christian religion, and particularly to the doctrine of the church of England, than persecution for conscience only; in due consideration whereof, an act passed in the first year of the reign of the late king William and queen Mary, intitled, 'An 'Act for exempting their majesties protes-'tant subjects, dissenting from the church 'of England, from the penalties of certain 'laws;' which act ought inviolably to be observed, and ease given to all consciences

line 7. After [Mary] add [of glorious memory].

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to it, and the lords ordered it to be entered in their books. But the commons were resolved to maintain their point, without entering into any debate upon it. The lords also added clauses, requiring proof to be made by two witnesses, and that the information should be given in within 10 days, and the prosecution commenced within three months after the fact. The commons agreed to this, but would not alter the penalties that they had set. The thing depended long between the two houses; both sides took pains to bring up the lords that would vote with them, so that there were above 130 lords in the house; the greatest number that had ever been together.

"The court put their whole strength to carry the bill; Prince George, who had received the Sacrament, as lord high admiral, and yet kept his chapel in the Lutheran way, so that he was an occasional communicant, came and voted for the bill: After some conferences, wherein each house had yielded some smaller differences to the other, it came to a Free Conference in the Painted Chamber, which was the most crowded upon that occasion, that had ever been known; so much weight was laid on this matter on both sides.

"When the lords retired, and it came to the final vote of adhering, the lords were so equally divided, that in three questions, put on different heads, the adhering was carried but by one voice in every one of them; and it was a different person that gave it in all the three divisions. The commons likewise adhered, so the bill was lost. This bill seemed to favour the interests of the church, so hot men were for it: and the greater number of the bishops being against it, they were censured, as cold and slack in the concerns of the church; a reproach, that all moderate men must expect, when they oppose violent motions. A great part of this fell on myself: for I bore a large share in the debates, both in the house of lords, and at the free conference. Angry men took occasion from hence, to charge the bishops as enemies to the church, and betrayers of its interests, because we would not run blindfold into the passions and designs of ill tempered men: though we can appeal to all the world, and which is more, to God himself, that we did faithfully and zealously pursue the true interests of the church, the promoting religion and learning, the encouraging of all good men, and good designs; and that we did apply ourselves to the duties of our function, and to the work of the gospel. Having this quiet within ourselves, we must bear the cross, and submit to the will of God; The less of our reward that we receive from men, we have so much the more to look for from him." Burnet.

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truly scrupulous; nevertheless, whereas the laws do provide that every person to be admitted into any office or employment should be conformable to the church, as it is by law established, by enacting, that every such person, so to be admitted, should receive the Sacrament of the Lord's Supper, according to the rites and usage of the church of England; yet several persons dissenting from the church, as it is by law established, do join with the members thereof in receiving the Sacrament of the Lord's Supper, to qualify themselves to have and enjoy such offices and employments, and do afterwards resort to conventicles or meetings for the exercise of religion in other manner than according to the liturgy and practice of the church of England, which is contrary to the intent and meaning of the laws already made: Be it therefore enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in parliament assembled, and by authority of the same, that if any person or persons after the 1st day of March, which shall be in the year of our Lord 1702, either peers or commoners, who have or shall have any office or offices, civil or military, or receive any pay, salary, fee, or wages, by reason of any patent or grant from her majesty, or shall have any command or place of trust from or under her majesty, or from any of her majesty's predecessors, or by her or their authority, or by authority derived from her or them, within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, or in her majesty's navy, or in the several islands of Jersey and Guernsey, or shall be admitted into any service or employment in her majesty's houshold or family; or if any mayor, alderman, recorder, bailiff, town clerk, common-council-man, or other person bearing any office of magistracy or place of trust, or other employment relating to or concerning the government of the respective cities, corporations, boroughs, cinque-ports, and their members, and other port-towns within the kingdom of England, dominion of Wales, and town of Berwick upon Tweed, who by the laws are obliged to receive the sacrament of the Lord's supper, according to the rites and usage of the church of England, shall at any time after their admission into their respective offices or employments, or after having such grant, as aforesaid, during his or their continuance in such office or offices, employment or employments, or the enjoyment of any profit or advantage from the same, shall resort to or be present at any conventicle, assembly or meeting, under colour or pretence of any exercise of religion, in other manner than according to the liturgy and practice of the church of England, in any place within the kingdom of England, dominion of Wales, and town

Disagreed to by the Commons.

Disagreed to by the Commons.

Disagreed to by the Commons.

Disagreed to by the Commons.

Agreed to by the Commons.

line 1. After [scrupulous] add [but].

line 1. Leave out from [whereas] to [several] in the 9th line.

line 14. Leave out [such].

line 42. Leave out from [family] to [shall] in the 55th line.

line 61. Leave out [shall] and read [knowingly and willingly].

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of Berwick upon Tweed, at which conventicle, assembly or meeting, there shall be five persons or more assembled together, over and besides those of the same household, if it be in any house where there is a family inhabiting, or if it be in an house or place where there is no family inhabiting, then where any five persons or more are so assembled, as aforesaid, shall forfeit

Agreed to by the Commons with the Amendments following, viz.

1. After the word [or] add [shall knowingly and willingly be present].

After the word [any] add [such].

After the word [meeting] leave out [where] and insert [in such house or place, as aforesaid, although].

After [liturgy] leave out [is] and insert [be there].

After [used] leave out [and where] and insert [in case].

After [majesty] add [whom God long preserve, Catherine the queen dowager].

After [Sophia] add [or such others as shall from time to time be lawfully appointed to be prayed for].

After [be] add [there].

2. To which Addition of the Lords (to the Amendments made by the Commons to the Lords Amendment) as entered on the other side, the Commons agreed.

line 9. After [aforesaid] add [or at any meeting where her liturgy is used, and where her majesty and the princess Sophia shall not be prayed for in express words, according to the liturgy of the church of England.]

1. To which Amendments of the Commons (to the Lords Amendment) as entered on the other side, the Lords agreed, with the Addition following:

2. After the words [prayed for] in the Commons Amendment, add [in pursuance of an act passed in the first year of king William and queen Mary, intitled, 'An Act declaring the 'Rights and Liberties of the Subject, and set-'tling the Succession of the Crown;' and the act passed in the twelfth and thirteenth of king William the third, intitled, 'An Act for the 'further Limitation of the Crown, and better 'securing the Rights and Liberties of the Sub-'ject.']

Disagreed to by the Commons.

the sum of one hundred pounds, and five pounds for every day, that any such person or persons shall continue in the execution of such office or employment, after he or they shall have resorted to or been present at any such conventicle, assembly or meeting as aforesaid, to be recovered by him or them that shall sue for the same, by any action of debt, bill, plaint or information; in any of her majesty's courts at Westminster, wherein no essoign, protection or wager of law shall be allowed, and no more than one imparlance.

line 10. Leave out [one hundred pounds, and five pounds for every day that such person or persons shall continue in the execution of such office or employment] and instead thereof insert [twenty pounds, to be divided into three parts, whereof one third part to the queen, one other to the poor of the parish where the offence shall be committed, and one third part to the informer].

And be it further enacted, that every person convicted in any action to be brought, as aforesaid, or upon any information, presentment or indictment in any of her majesty's courts at Westminster, or at the assizes, shall be disabled from thenceforth to hold such office or offices, employment or employments, or to receive any profit or advantage by reason of them, or of any grant, as aforesaid, and shall be adjudged incapable to bear any office or employment whatsoever, within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed.

Disagreed to by the Commons.

line 32. Leave out from [aforesaid] to the end of the bill.

And add the clauses A, B, C, D, E.

Clause [A] agreed to by the Commons.

Provided always, and be it farther enacted by the authority aforesaid, that if any person or persons who shall have been convicted, as aforesaid, and thereby made incapable to hold any office or employment, shall, after such conviction, conform to the church of England for the space of one year, without having been present at any

[A]. Provided, that no person shall suffer any punishment for any offence committed against this act, unless oath be made of such offence before some judge or justice of the peace (who is hereby empowered and required to take the said oath) within ten days after the said offence committed, and unless the said offender be prosecuted for the same within three months after the said offence committed; nor shall any person be convicted for

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conventicle, assembly or meeting, as aforesaid, and receive the sacrament of the Lord's supper at least three times in the year; every such person or persons shall be capable of a grant of any office or employment, or of being elected into or holding of any the offices or employments aforesaid.

Clause [B] disagreed to by the Commons.

Provided also, and be it enacted, that every person so convicted, and afterwards conforming in manner, as aforesaid, shall at the next term after his admission into any such office or employment, make oath in writing, in any of her majesty's courts at Westminster, in public and open court, between the hours of nine of the clock and twelve in the forenoon, or at the next quarter-sessions for that county or place where he shall reside, that he has conformed to the church of England for the space of one year before such his admission, without having been present at any conventicle, assembly or meeting, as aforesaid, and that he has received the sacrament of the Lord's supper at least three times in the year, which oath shall be there enrolled and kept upon record.

Clause [C] disagreed to by the Commons.

Provided also, and be it further enacted by the authority aforesaid, that if any person after such his admission, as aforesaid, into any office or employment, shall a second time offend, in manner aforesaid, and shall be thereof lawfully convicted, he shall for such offence incur double the penalties before-mentioned, to be recovered in manner, as aforesaid, and shall forfeit such office or employment, until he shall have conformed for the space of three years, in manner aforesaid, whereof oath shall be made in writing in one of her majesty's courts at Westminster, or at the quarter-sessions of the county where he resides.

Clause [D] disagreed to by the Commons.

Clause [E] disagreed to by the Commons.

any such offence, unless upon the oaths of two credible witnesses at the least.

[B]. Provided always, and be it enacted, that from and after the said 1st day of March, no protestant dissenter shall be compelled or compellable to take, serve, hold or bear any office or place whatsoever, for the taking, serving or holding whereof he cannot be duly qualified by law, without receiving the Holy Sacrament according to the usage of the church of England, and also making and subscribing the Declaration mentioned in the statute, made 25 Car. 2, intitled, 'An Act for preventing Dangers 'which may happen from Popish 'Recusants,' any statute, law, usage, or other thing to the contrary notwithstanding.

[C]. Provided nevertheless, that this act shall not extend to the university churches in the universities of this realm, or either of them, when, or at such times as any sermon or lecture is preached or read in the same churches, or any of them, for, or as the public university sermon or lecture, but that the same sermons and lectures may be preached or read, in such sort or manner, as the same have been heretofore preached or read; this act, or any thing therein contained to the contrary, in any wise notwithstanding.

[D]. Provided, that no person shall incur any the penalties in this act, by resorting to, or being present at the religious exercises used in the Dutch and French languages, in churches established in this realm, in the reigns of king Edward the Sixth or of queen Elizabeth, or of any other king or queen of this realm.

[E]. Provided always, and be it enacted by the authority aforesaid, that nothing in this act shall extend, or be construed to extend to any governor or governors of any hospital or hospitals, or to any assistants of any corporation or corporations, workhouse or work-houses, constituted, erected or employed for the relief, and setting of the poor on work, and for punishing of vagrants and beggars; all which said persons, and every of them, shall be, and are hereby exempted from all the penalties mentioned in this act, and are hereby adjudged and declared not to be subject or liable to any of the penalties or forfeitures mentioned in one act of parliament made in the 25th year of the reign of king Charles the Second, 'For preventing Dangers which 'may happen from Popish Recusants,' for or by reason of any of the aforesaid offices or employments.

First Conference.] Dec. 17. The managers appointed by the two houses had their first Conference, as follows:

To the first Amendment the Commons do agree.

To the second and third Amendments, line 10, and 11, the Commons disagree. 1. Because that the recital, that every person to be admitted into any office or employment, should be conformable to the church, as it is by law established, is confined to such laws as enact, that every such person shall receive the Sacrament of the Lord's Supper, according to the rights and usage of the church of England. 2. Because the Corporation and the Test-Acts, which have been frequently evaded, and are by this bill intended to be made effectual, do provide, that all persons to be admitted into any office or employment, in pursuance of those acts, should receive the Sacrament of the Lord's Supper, according to the rites and usage of the

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church of England; and all persons under such obligation to receive the Sacrament, the Commons conceive are obliged to be conformable to the church, as it is by law established.

To the 4th Amendment, line 20th, the Commons disagree, because it depends upon the former.

To the fifth Amendment, 2nd skin, line the 4th, the Commons disagree; because your lordships admit this bill to be reasonable as to the officers and persons described in the former part of this clause, and the Commons see no reason why this bill should not equally extend to the persons and officers described in the latter part thereof, left out by your lordships in this Amendment. 2. Your lordships leaving out, in this Amendment, these words, (viz.) 'Who by the laws are obliged to receive the 'Sacrament of the Lord's Supper, according to 'the rites and usage of the church of England,' may countenance an opinion, that the persons described in the words left out by your lordships, are not obliged to receive the Sacrament. 3. Those words do equally refer to the persons described in the former part of this clause, to which your lordships have agreed, as to the persons described in your lordships' Amendment, and the Commons take it to be very evident, that every person described in this clause, as sent up to your lordships, is obliged to receive the Sacrament of the Lord's Supper, according to the rites and usage of the church of England.

To the sixth Amendment, line 20th, the Commons do agree.

To the 7th Amendment, line 30th, the Commons have agreed, with some Amendments.

To the 8th Amendment, line 34th, the Commons have disagreed, because (though many other reasons might be offered, from which the Commons can never depart, yet, at this time, they think it sufficient to say) that the penalties, left out by your lordships in this Amendment, are reasonable, and no more than what is necessary to make this bill effectual.

To the 9th Amendment, 3rd skin, line 9th, the Commons disagree, because they think the penalty of incapacity, as qualified by the subsequent provisoes, is a proper punishment for this offence; and the Commons conceive it necessary to encrease the penalty upon a second offence, as has been practised in many other cases.

To clause [A.] the Commons agree.

To clause [B.] the Commons disagree, because, as this bill takes away no one privilege that the dissenters have by law, so the Commons cannot think it fit to give them any new privilege by it.

To clause [C.] the Commons disagree, because the Commons conceive there is no occasion for it.

To clause [D.] the Commons disagree, because the Commons think it necessary that the bill should equally extend to all persons, before recited, as obliged to receive the Sacrament, and see no reason for the distinction made thereby.

To clause (E.) the Commons disagree, because, if such persons are obliged to receive the Sacrament, there is no reason to exempt them out of this bill, and if they are not obliged, the clause is unnecessary.

Second Conference.] To these reasons of the Commons the Lords replied, at a second Conference, Jan. 9, as follows:

"The Lords insist on the 2nd and 3rd Amendments in the preamble of the bill: Because the words left out by this Amendment are introduced to the clause left out by their lordships in the fifth Amendment. Besides, as the law now stands, there are many offices and employments to which persons may be admitted, without being under an obligation to receive the Sacrament on that account; and therefore they cannot agree to let a clause stand, wherein a matter of fact is positively affirmed, which they take to be otherwise.

"The Lords insist on the 4th Amendment, because it depends on the former.

"The Lords insist on their fifth Amendment: Because the Act of the 25th of king Charles the Second, called 'The Test Act,' which has been found by experience to have been an effectual security against Popery, and which their lordships are willing to enforce yet further by this bill as to the Dissenters, is known to every body; and it is generally understood to what employments it does extend: and therefore their lordships think it reasonable to rest there, and not to subject men to the penalties of this bill upon general or uncertain words.—The Lords do not go about to take away the force of the Corporation Act, or to lessen any security the church of England has by it; but cannot agree to extend the penalties of this bill to the general words of that act, which, by construction, hereafter may serve purposes which are not owned at present to be the intent of this bill.

"The Lords insist on their 8th Amendment, which relates to the punishments as they stood when the bill was sent up from the house of commons.—Whatever regard their lordships may have to reasons which the house of commons are resolved never to depart from: they hope it will not seem strange, that they are not convinced by such reasons as are not thought fit to be offered: but, in justification of their Amendment, their lordships think fit to say, that as they have an undoubted right to begin bills with pecuniary penalties, and to alter and distribute pecuniary penalties in bills sent up to them by the house of commons (which right their ancestors have always enjoyed, and from which their lordships can never depart), so, they are convinced, there never was a more just occasion of making use of that right than in the present case.—They conceive, the penalty of 100*l.* and 5*l.* a day for every day after the offence committed, to be excessive; and the whole being given to the informer, would prove a dangerous temptation to perjury, and a pernicious encouragement to informers, the most

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odious sort of persons, which would be a blemish on the best reign.—Their lordships have given a sufficient proof of their willingness to make this bill as effectual as will consist with reason, by agreeing to such a pecuniary penalty (besides the loss of office), as may be a proper encouragement to informers to swear the truth, though not perhaps a sufficient temptation to go further.

"As to the 9th Amendment; the Commons say they disagree, because they think incapacity a proper punishment for this offence. 1. The Lords insist upon their Amendment, because they think directly the contrary. 2. Their lordships observe, that, as the law now stands, any person having an office may be present at mass upon much easier terms, than he might be present at a conventicle if the Lords should depart from this Amendment. 3. The Lords think an Englishman cannot be reduced to a more unhappy condition, than to be put, by law, under an incapacity of serving his prince and country; and therefore nothing but a crime of the most detestable nature ought to put him under such a disability: they who think the being present at a meeting to be so high a crime, can hardly think that a toleration of such meetings ought to continue long; and yet the bill says, 'The Act of 'Toleration ought to be kept inviolable.' The Lords do not think it at all necessary to make an increase of punishment for a second offence, because the first offence is made forfeiture of office; and when the office is gone, the person may go to a meeting, without breach of any law, while the Act of Toleration continues; and if he shall afterwards get another office, he will forfeit the same, and incur the penalties in this act, if he shall ever after be present at a conventicle; which their lordships think sufficient punishment for a second offence.

"2nd Skin, 33 line. The Lords agree to the Commons Amendments to their lordships Amendment, with the addition of the words following, after the words ['prayed for']; *(videlicet,)* ['in pursuance of the act passed in the 'first year of king William and queen Mary, in-'tituled, 'An Act declaring the rights and li-''berties of the subject, and settling the suc-''cession of the crown;' and the act passed in 'the 12th and 13th of king William the Third, 'intituled, 'An Act for the further limitation ''of the crown, and better securing the rights ''and liberties of the subject.']."

"The Lords insist on the clause (B.): Because, to leave Protestant dissenters subject to penalties if they do not accept of offices, and at the same time to restrain them, if they accept of them upon the penalties of this bill, from doing what they think themselves obliged to in conscience, is persecution for conscience, and does not agree with what is set forth in the preamble of the bill.

"The Lords insist on clause (C.): Because they see no reason why being present at sermons or lectures preached or read in the universities, and established by ancient custom, and with very good intentions, should subject men to the danger of incurring the penalties of this law: and the same clause was thought necessary in the Act of Uniformity.

"The Lords insist on clause (D.): Because the foreign reformed churches allowed, or to be allowed, were by the Act of Uniformity exempted from the penalties of that law; and other foreign Protestants, who have been forced out of their own country by a cruel persecution, have settled here in England, by encouragement from parliaments, as well as from the crown: it would have a strange appearance, if it should be thought so high an offence for any of her majesty's subjects in office but once to be present at their way of worship.—This would give such a discountenance to those of the same religion abroad, as would no way suit with her majesty's character of head of the Protestant interest in Europe

"The Lords insist on clause (E.): Because the persons concerned in it have no profit, nor any trust but what relates to the poor; and, without this clause, charitable foundations, as hospitals, public workhouses, and the like, would meet with discouragement, and the number of them might be lessened."

Free Conference.] The 16th, The Committee of both houses met at the Free Conference,* which was managed for the Lords, by the duke of Devonshire, the earl of Peterborough, the lord bishop of Salisbury, the lord Somers, and the lord Halifax. And for the Commons, by Mr. Bromley, Mr. St. John, Mr. Finch, Mr. Solicitor-General, and sir Thomas Powis.

"They acquainted the managers for the Lords, That the Commons had agreed to the addition of words their lordships had made to the Commons amendments to the Lords amendment in the 2d Skin, line 23; but insisted on their disagreement to the Lords other amendments, and to their Lordships' clauses marked B. C. D, and E.; and therefore had desired this Free Conference with the Lords, in order to preserve a good correspondence between the two Houses.

"That the interests of the church and state were not to be supported without it; and, that

* "The court put their whole strength to carry this bill: prince George came and voted for it, though he was himself an occasional Conformist. For he had received the sacrament as lord high-admiral, and yet kept his chapel in the Lutheran way. It was reported, the prince should say to the lord Wharton, when he was about to divide against him, 'my heart is vid you.' The earl of Marlborough and the lord Godolphin also were for the bill. After some conferences wherein each house had yielded some smaller differences to the other, it came to a Free Conference, on the 16th of January, in the Painted Chamber, which was the more crowded upon that occasion than had ever been known; so much weight was laid on this matter on both sides." Tindal.

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the Commons might omit nothing to maintain a good correspondence, they had taken this way, which had been practised with so good success by their ancestors.

"That the intent of this bill for preventing Occasional Conformity is only to restrain, to put a stop to a very scandalous practice, which is a reproach to religion, gives offence to all good Christians, and to the best among the Dissenters themselves.

"That this bill enacts nothing new; that it is intended to make the laws in being more effectual.

"That those laws were thought sufficient to secure our establishment; but, since the invention, since the iniquity, of men had found out ways to evade and elude them, the Commons would never doubt but the Lords would let these men see they would not be wanting on their part, to maintain and support it.

"That this bill appears to the Commons absolutely necessary, for preventing those mischiefs which must prove destructive to the church and the monarchy.

"That the Commons were incapable of having any designs they were ashamed to own: That they designed nothing but the preservation of the church of England and the monarchy; and doubted not to meet with a ready concurrence from the Lords in their designs.

"That an established religion and a national church are absolutely necessary, when so many ill men pretend to inspiration, and when there are so many weak men to follow them.

"That, if a national church be necessary, the only effectual way to preserve it, is by keeping the civil power in the hands of those, whose practice and principles are conformable to it.

"That, when the Corporation Act was made, the parliament had fresh in their minds the confusions and calamities that had been brought upon the nation by such as pretended to be at the same time in the true interest of religion and their country: That the parliament by that act, and afterwards by the Test Act, thought they had secured our establishment both in church and state; and that they had provided a sufficient barrier, to defeat and disappoint any attempts against them, by enacting, that all in offices should receive the Sacrament of the Lord's supper, according to the rites and usage of the church of England; and never imagined a set of men would, at any time, rise up, whose consciences were too tender to obey the laws, but hardened enough to break through any.

"That as, upon the Revolution, the last reign began with an act in favour of the dissenters; so the Commons do desire, in the beginning of her majesty's auspicious reign, an act may pass in favour of the church of England; that the laws, which have been invaded, may now be effectually enforced; and that those men may be kept out of offices, who have shewn they never wanted the will, when they had the power, to destroy the church.

"That nothing had been more misrepresented than this bill.

"That this bill does not intrench on the act of Toleration, and in no respect affects what is enacted by it.

"That this bill takes not from the Dissenters any one privilege they have by law.

"That this bill gives not any one privilege to the church of England, which is not (at least) intended her by the laws as they now stand.

"Their managers then acquainted the Lords, that the Commons insisted on their disagreement to the second and third amendments made by the Lords in the preamble of the bill, and on their disagreement to the fourth amendment; and argued,

"That a preamble is to declare the occasion of making a law; it makes no law; and if it be proper to the enacting clause, it is a proper preamble.

"That the propositions advanced in this preamble are these: That whatsoever persons are enacted to qualify themselves, the laws intend should be conformable to the Church.

"That if the laws provide they should receive the sacrament, and by that intend a conformity; then whosoever breaks the intention of the laws, breaks the law, or at least evades the law; and it is fit to secure us against such practices.

"That, if it be fit the Corporation Clause should stand in the body, the Lords reasons for the amendments in the preamble will not be of weight.

"That the preamble mentions such persons and such offices; which must be the persons and the offices the act relates to; and can be no other.

"That the word 'enacting' can only be understood of the laws that do so enact; being relative, is still more plain and necessary.

"That, however, and if the Lords had pleased, they might, by a very little amendment, have obviated the objection they make to these words, by changing ['every person'] into ['several persons'] which would have reconciled them to the most rigid construction.

"Then their managers acquainted the Lords, that they insisted on their disagreeing to the Fifth Amendment; and argued,

"That the words in the Test Act are more general and uncertain than those in the Corporation Act, which their managers cited and compared.

"That the words in the Corporation Act have been there more than forty years, without any inconveniency from them, or any complaint against them, for their being too general and uncertain.

"That the inducements for passing the Corporation Act, according to the preamble, were, That a succession in corporations might be perpetuated in the hands of persons well affected to the king and the established government, and for the preservation of the public peace both in church and state.

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"That these were the purposes the Commons designed in the passing this law.

"That these purposes, the Commons know, the Lords will with them own, are very proper to be attained; and that the Commons cannot at any time disown, because they can at no time have any other.

"That the Lords agree, this bill should relate to officers in the Test Act; because the law intends those officers should be conformable: And if the intention of that law be the reason to provide against such evaders of it, the like intention in the Corporation Act will serve for a reason to provide against the evaders of the Corporation Act.

"That, by Occasional Conformity, the Dissenters may let themselves into the government of all the corporations; And it is obvious how far that would influence the government of the kingdom.

"That to separate from a church, which has nothing in it against a man's conscience to conform to, is schism.

"That Schism is certainly a spiritual sin, without the superadding of a temporal law to make it an offence.

"This Occasional Conformity declares a man's conscience will let him conform; and in such a man non-conformity is a willful sin: and why should occasional conformity be allowed in corporations, when the Lords agree that out of corporations it ought not to be allowed?

"That, if it be reasonable, as the Lords allow it is, that he who hath an office out of a corporation, though it entitles him perhaps to very little profit or trust, should be conformable; it is certainly much more reasonable, that another, who is trusted with magistracy and power in a corporation, and has thereby a greater influence, should be conformable.

"The managers for the Commons insisted on their disagreeing to the Lords' Eighth Amendment; and argued,

"That, if the Lords were pleased to consider how much greater the penalties and other penal laws were in many instances than in this bill; they presumed, the Lords would not think those in this bill excessive.

"That, in laying penalties, the Commons shall always endeavour to make them such, as shall neither tempt to perjury, nor totally discourage information and prosecutions; which they thought this Amendment of the Lords would do, should the Commons agree to it.

"Their managers insisting on their disagreement to the Lords' Ninth Amendment; and argued,

"That the punishment of incapacity, the recapacitating, and the increase of punishment for a second offence, are warranted by many precedents of the like nature in other penal laws.

"That an incapacity, as qualified by the subsequent proviso, is a very proper punishment: That a second offence is a relapse and an apostacy, which are circumstances that aggravate and make it more heinous than the first offence, and therefore deserve an increase of punishment.

"That he is indeed reduced to a very unhappy condition, who is made incapable of serving his prince and country; but, in the present case, our prince and country would be in a more unhappy condition, to be served by such whose principles are inconsistent with the good and welfare of our establishment.

"That the Commons could never imagine the Lords could infer, from this incapacity, the taking away the Toleration.

"That the Toleration was intended only for the ease of tender and scrupulous consciences, and not to give a license for Occasional Conformity.

"That conforming and non-conforming are contradictions; nothing but a firm persuasion that our terms of communion are sinful and unlawful can justify the one, and that plainly condemns the other.

"For their insisting on their disagreeing to the clauses marked B. C. D. and E. their managers offered these reasons:

"That the exempting Protestant Dissenters from serving offices would rather establish occasional non-conformity, than prevent occasional conformity; and therefore increase, not cure, the evil the bill was intended to remedy.

"That the Act of Uniformity, which established the liturgy and practice of the church of England, has provided for the sermons or lectures preached or read in the universities.

"That, these sermons and lectures having been in such manner provided for, it was not thought necessary, when the act passed in the 16th and in the 22d Car. 2, to prevent and suppress seditious conventicles (in both which acts conventicles are described as in this bill), to have any particular exceptions for them; and yet they were never, by any constructions, taken to be conventicles.

"That the allowing an exemption to such as should be present at the exercises in the foreign reformed churches, would be to open a door for the evading this law.

"That the places of governors of some hospitals are very considerable preferments, and given as such to the clergy of the church of England; and the Commons can never consent, by any law, to let in the Dissenters to the enjoyment of them."

"The managers for the Lords did maintain the Alterations made in the Bill, and the clauses added to it.

"The substance of what was said by the Lords' Managers was, That the Lords were as desirous as the Commons, to preserve a good correspondence betwixt the two Houses.

"That, by their agreeing so far as they have done to this bill, they have gone a great way for the preventing the evil this bill is intended to remedy; and own it to be a scandal to religion, that persons should conform only for a place.

"That the Lords do not take, going to a meeting to be *malum in se*; for that the Dissenters

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are Protestants, and differ from the Church of England only in some little forms; and therefore the Lords think, loss of office a sufficient punishment, without an incapacity.

"That it can never be thought, those of the better sort will be guilty of this offence; if they are, they lose their offices: and loss of office is a severe penalty in inferior offices of the customs and excise, and who have little else to subsist on: In short, they will be undone by the loss of their office; and this the Lords think severe enough without carrying it much further: This is yet more considerable in patent places, which, by a common custom, are bought and sold, and are of the nature of freeholds.

"That incapacity is too great a penalty; and that it is hard to imagine any offence, that is not capital, can deserve it.

"That there is no more reason to punish this offence with incapacity, than to make it felony.

"That the Dissenters are not obnoxious to the government, as when the Corporation Act was made.

"That the most considerable persons of the Dissenters are well affected to the present constitution, and are hearty enemies to the queen's and kingdom's enemies.

"That in some corporations, the Lords take the election of members to serve in parliament to be only in such as are concerned in the government of them, as at Buckingham, &c.; and the Lords would not, by this bill, deprive men of their birth-rights.

"That the Lords do not think fit to bring any greater hardships upon the Dissenters, since great advantages have accrued from the Act of Toleration.

"That the Dissenters had formerly been seditious and had appeared in open rebellion; they then declared both against church and state.

"But of late, in the greatest extremity of the church, they joined with her; when the bishops were in the Tower, the Dissenters shewed they had no prejudice to the church, and so they have continued to behave themselves.

"That the Lords did equally desire a good correspondence betwixt the two houses; and were so satisfied of the necessity of union at this time, that they thought all measures fatal, that might create any divisions amongst Protestants at home, or give any check to the necessary union amongst our allies abroad, of the reformed religion.

"For which Reasons, in a time of war, they thought alterations unnecessary and dangerous; and were unwilling to bring any real hardships upon the Dissenters at this time, or give them any cause of jealousies or fears.

"That the Toleration hath had such visible and good effects, hath contributed so much to the security and reputation of the Church of England, and produced so good a temper amongst the Dissenters, that the Lords are unwilling to give the least discredit to that act; being sensible, that liberty of conscience and gentle measures are most proper, and have been found most effectual, toward increasing the Church, and diminishing the number of Dissenters.

"That the Lords apprehend, that some parts of this bill by them amended have an air of severity improper for this season; that, though there may be some things to be found fault with, yet a proper time ought to be taken to apply remedies; that the attempting too hasty cures have often proved fatal.

"That the Lords could not conceive the interest of the church and state were not to be supported without this bill; since, in case of such danger and necessity, this remedy must have been proposed before now, by some of those worthy members of the Church of England, who, in so many parliaments, since the Toleration, have shewn so much zeal for the national church and government.

"That the Lords think they have sufficiently shewn their dislike to the practice of occasional conformity, on which they inflict no less a punishment than loss of place; and have consented likewise to a reasonable fine to be laid on those who are proved guilty of this crime.

"The Lords cannot but conceive that, if this bill did enact nothing new, there would not be such a contest about it; that it is plain, though occasional conformity ought always to have been esteemed a crime, that the practice was new, and the punishment provided by this law new likewise: the Lords consent to a punishment; but would proportion the penalty to the offence.

"That the Commons give up this argument, when they propose, for new invented crimes, new invented punishments.

"That, as the Commons need not be ashamed of designs so laudable as the preservation of the Church of England and monarchy; so, the Lords conclude, their desires of securing the Toleration Act, the peace and quiet of the kingdom at home, and the interest of the nation abroad, will meet with a fair construction; especially when they hope the church is so well secured, by her doctrine, by the good laws of the realm, and the protection of so pious a queen, assisted by a parliament so well affected to the church and state.

"That the Lords not only allow the necessity of an established religion and a national church; but, being likewise of that national church, they can never be wanting to those measures they think proper to secure it: and though, by the first appearance, the members of the house of commons may seem upon this occasion the most zealous champions to the national establishment; yet the Lords think the only contest between them is, which shall most befriend and take care of the church; the one would procure a hasty settled submission, not so much to be depended upon; the other would obtain for her a more gradual, but a safer, advantage over those that dissent from her; the same end being designed by both, and only some difference in the means to attain it.

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"That the Lords do not well understand the inference, that as, upon the Revolution, the last reign began with an act in favour of the Dissenters; so the Commons do desire, in the beginning of her majesty's reign, an act may pass in favour of the Church.

"The Lords conceive, that both reigns began upon the same bottom and foundation; and that, as in this reign her majesty hath been pleased to give gracious assurances as to liberty of conscience, so in the last, the Church ever met with protection and support.

"That the interest of both princes is, to support the Church against her enemies: That it is hard, as well as untrue, to say of the Dissenters, they never wanted the will, when they had the power, to destroy the church and state; since in the last and greatest danger the church was exposed to, they joined with her, with all imaginable zeal and sincerity, against the Papists, their common enemies; shewing no prejudice to the church, but the utmost respect to her bishops when sent to the Tower; and that ever since they have continued to shew all the signs of friendship and submission to the government of church and state.

"That, in truth, formerly the Dissenters had been seditious, and in arms and opposition to the state and church; but it was the effect of persecution; and that, even then, they were open and avowed enemies; but that toleration and tenderness had never missed of procuring peace and union, as persecution had never failed producing the contrary effects.

"That the Lords cannot think the Dissenters can properly be called schismatics, at least that differ in no essential point; that such an opinion allowed would bring a heavy charge upon the church of England, who, by a law, have tolerated such a schism; that connivance hath been used to schismatics; that public allowance was never given to such; and the churchmen having allowed communion with the reformed churches abroad professing Calvinism, it must follow, they hold them not guilty of schism, or could not allow communion with them.

"That this Bill inflicts a second punishment on those who fled from France for their religion, that they sought a very improper refuge, amongst those that must think them guilty of schism, and must use them accordingly; that this may be used as an argument to justify even the persecution in France. Why may not the Roman Catholics, with reason, banish those, that even Protestants can hardly endure amongst them; and for whose doctrine and practice they shew such an aversion, that a man must forfeit his place, and undergo a hard penalty, but for entering once into their congregation?

"That the Lords cannot depart from the clause relating to the Dutch and Walloon churches so long established amongst us, lest it should give great disgust and offence to our allies abroad, and at the same time forfeit the greatest character can be given a church, that of tenderness and charity to fellow christians; the contrary practice being what is so much abhorred amongst Roman Catholics.

"That, though the Lords allow, that no man hath a place by birth-right, or but few such examples in our government; yet that giving a vote for a representative in parliament is the essential privilege whereby every Englishman preserves his property, and that whatsoever deprives him of such vote, deprives him of his birth-right.

"The Lords are of opinion, the Dissenters should have liberty of conscience; but agree to the further measures proposed by the Commons, to allow neither Dissenters nor occasional conformists any share in the government: but they take this to be the great security for the established religion, that all who sit in the house of commons must be churchmen; and the difference between a churchman chose by churchmen, and chose by Dissenters, is only this, that the former will be for using severer, the other gentler means, for bringing the Dissenters into the church.

"That the disagreeing to the clause relating to workhouses where the poor were employed and relieved, seems very hard; since it could never be conceived, that the distribution of some Presbyterian bread to the poor, and Dissenting water-gruel to the sick, could ever bring any prejudice to the church of England; especially by such that, having no authority in the government, or profit by the administration of such charities, gave them indifferently to those of all persuasions.

"Allow them charity to cover their sins, which God allows and commands.

"That the Lords conceived the Act of Toleration visibly proved, to the advantage of the church, that even the practice of occasional conformity in a few, as it had done great prejudice to the Dissenters, so had it added to the reputation and authority of the church; the Dissenters having determined the point against themselves by this practice: for, if they can conform for a place, much more ought they to do so in compliance with the law, and for the sake of unity: but one or two instances of this in so long a time.

"That the Lords are of opinion, the Dissenters are coming into the church, and that nothing but terrifying measures and severity can prevent the happy union.

"The main design of this bill is, to secure the church of England; and in this the Lords do perfectly agree with the Commons; both sides of the house join in it with equal zeal: and the main point of this bill being the excluding all persons from employments of trust, who join themselves to any other bodies for religious worship, besides the church of England; the Lords do agree entirely with them likewise in this; all the difference is, what further penalties should be laid, besides the forfeiture of the employment, on persons so offending.

"The Lords look on the fixing of qualifications for places of trust to be a thing so entirely

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lodged with the legislature, that, without giving any reason for it, upon any apprehension of danger, how remote soever, every government may put such rules, restraints, or conditions, on all who serve in any place of trust, as they shall see cause for; but penalties and punishments are of another nature.—Draco's laws, by reason of their extreme severity, are said to have been writ in blood; if petty larceny were made capital, here would be just occasion for censure.—There ought to be a proportion observed between the offence and the punishment; and offences of a lower nature ought not to be punished more severely than offences of a higher nature.—Popery has been ever looked on, as that which we ought to apprehend and fear the most, and guard chiefly against it, being our most inveterate, most restless, and most formidable enemy; and therefore there has been always a great difference put between papist and protestant dissenters, how bad and dangerous soever they may be.

"There has been a spirit of moderation eminently conspicuous in the whole progress of our legislation, with relation to that religion, suitable both to the natural gentleness of this government, and to the charity which our region teaches.

"In the first beginning of our Reformation, under Edward 6, the Act of Uniformity was conceived in terms suitable to that moderation. (2 & 3 Ed. 6. cap. 1) Any clergyman, that should use any other manner of mass, wilfully standing in the same, or that should preach against the book of Common Prayer, for the first offence was only to forfeit one year's profits of any one of his spiritual preferments, with six months imprisonment. Here was a mild punishment, even of a clergyman offending; and yet that was not inflicted, unless he continued obstinate.—By the same act, if any of the laity should procure or compel any to use any other form of worship in a cathedral or parish church, even for so public an affront to the established religion, he was only to be fined in ten pounds, or to suffer three months imprisonment.—With this gentleness was our Reformation at first set up; and though perhaps it may be suggested that by this mildness, Papists were so favourable used, that they had it soon in their power to lay that work in the dust, and to burn those who had used them so mercifully; yet, when things were happily re-established by queen Elizabeth, though the penalties were a little heightened, still the moderation of that time was eminent.

"A Clergyman, that before for his first offence had forfeited one year's profits of any one preferment, did, by the act of the queen, forfeit one year of all his preferments; and the procurers or compellers of using another form of worship, even in a Cathedral, were fined in an hundred marks.

"With such gentle methods was our Reformation at first established. And when the many conspiracies against the life of that queen forced the government to greater severities, yet, in the statute of the twenty-third of the queen, the hearing of Mass was indeed made more penal; one hundred marks was set for the fine, with a year's imprisonment; but with this temper, that if the person accused did, before judgment, submit and conform, he was to be discharged. This is the highest severity to which our laws have carried the hearing of Mass; and here is an easy way provided to escape it. I need not observe, that the penalty of this bill goes higher, and is not so easily avoided.

"A Papist convict, as soon as he conforms himself, and receives the Sacrament, is immediately cleared; no incapacity lies upon him: But this Act carries that matter further, to a year's incapacity. A Papist, that shall relapse, and fall under a second conviction, is only convicted over again, without any aggravation of the censure; which by this bill is much heightened upon a second offence: So that the penalties of this bill are higher than any the law has laid on Papists for assisting at the solemnest acts of their religion. It is true, if a Papist shall hear Mass with five persons more than those of his own family, he falls under the penalties of this bill; but all that have been abroad, and are acquainted with the methods of that religion, even where it acts in a full freedom, know that the practice of solitary Masses among them is so common, that no man of that church is in danger of falling under any penalty, for having any number about him in the acts of their worship.

"When the first act against Conventicles passed, which is the foundation of a great part of this bill, the fines set were six months imprisonment, to be redeemable by 5*l.* for the first offence; a year's imprisonment, to be redeemable by 10*l.*, for the second offence; and banishment was the punishment for the third offence.

"The Lords, disliking that severity, added a clause for redeeming that by 100*l.*, and appropriated the fine. The severity of these pains did not agree with the temper of Englishmen, and the act was not much executed. Some years after that, a gentler act was made; the fines were then set at 5*s.* and 10*s.* for the first and second offence; but no man could be fined above 10*l.* for any offence against that act, except the master of the house where the conventicle was held, who was to be fined in twenty pounds.

"The severity of this was intended to force the Dissenters to petition for the Toleration, that was then designed, and followed not long after; this act was executed in Starling's mayoralty with the greatest severity, at the time that Madam was at Dover; soon after, that prosecution was slackened. But, after the attempt made for the exclusion, these laws were again executed for some years with great severity, by a Popish management; after they had set the Church against the Dissenters, then, according to their wonted arts, they studied to set the Dissenters as much against the Church.

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"When, by such methods, we were reduced to the last extremities, then was the late king invited to come and deliver us; and, after he had secured our religion, our laws, and our liberties, he, by the Act of Toleration, which he passed, quieted those heats that had almost consumed us.

"Whatever some may think, he will be still reckoned among the greatest of our kings: To him we owed a long continuance of a flourishing time, even during a great war; and it is to him, that we owe the great happiness of her majesty's being now on the throne.

"The church has no reason to complain of the effects of the Toleration; for, as the numbers of those who divide from us do visibly abate all over the nation; so the heat and fermentation, which was raised by those divisions, is almost entirely laid, and we cannot but look on that as a happy step towards the healing of our wounds.

"But what may we not look for under the reign of such a queen; whose example, whose virtues, and zeal, give us reason to hope for a happy state of matters in the church, if undue severities do not again raise new flames, and set a new edge on men's spirits, which may blast these hopes, and defeat the success that we might otherwise expect under such an auspicious reign!

"Before the Act of Toleration passed, while conventicles were illegal and criminal assemblies; yet even then a man in office, that was present at them, was only liable to a fine of 10*l.*; whereas, by this bill, he is liable to a fine of 100*l.* for being present at them, though they have now an impunity by law: It does not seem so very suitable, that the same action shall be made ten times more penal after such an impunity is granted, than it was before the passing that law, while such assemblies were illegal.

"This is yet more extraordinary with relation to the churches of the foreign Protestants, that were taken care of even in the Act of Uniformity; so that these are legal assemblies, not only tolerated, but allowed. Now, how unlimited soever the legislature is as to the qualifications necessary for all that hold any place of trust; yet it seems contrary to all known rules, to lay a very heavy penalty on any action that is allowed by law.

"A known maxim, with relation to all laws that are highly penal, is, that the words expressing the crime ought to be clear, and of a determinate sense, not liable to constructions and stretches; since the greatness of the penalty may prove an inducement to make those stretches, and to carry them far beyond what is intended. The crime so penal by this bill is, to be in a meeting, with five more than the family, under the pretence of religious worship, other than according to the Liturgy and practice of the church of England. Now we know indeed what the Liturgy is; but it is not so easy to tell what the importance of the word practice may be, or how far that may be carried; whether it is the practice of cathedral, or parochial churches; and whether practice shall govern the liturgy, as in the not saying the second service at the altar, or christening after the second lesson? and whether all family prayer, if not by the form of the Liturgy is not, condemned; though many books for family prayers have been much recommended, and commonly made use of?

"In the country, few persons of condition are so retired, as not to have often five more than their family within their houses: must these be excluded from family prayer, if it is not according to the Liturgy? and may not even the liturgy prayers, without psalms and lessons, be likewise included within these words, or at least be carried to that by vexatious informers, and be so given by easy juries and partial judges: It therefore seems ensnaring, and unbecoming so mild a government as ours happily is, especially when it is in such hands, to lay so heavy a penalty upon an offence so dubiously expressed.

"But, as the penalty seems excessive, and the words are of uncertain signification; so the Lords do not approve of the application of the sums to be raised by this bill, that they should all go to the informer. The ancient method was to give them to the crown, and to leave the encouraging informers to the crown; it was one of those trusts that were lodged with the sovereign, and so the laws were to be executed severely or more remissly as the public occasions required. but, by this bill, all is given to the informer, 100*l.* for the offence, and 5*l.* a day for three months, both which may amount to 550*l.*

"For, though an oath must be made within ten days, yet, this not being to be done in open court, the party may not hear of it; and if he knows it to be false, he may have no regard to it, so he may let it run to the term limited by the bill.

"This nation has been groaning long under false swearing, that has been in every corner; all sides have had their share in it. Till God pours out another spirit upon us, one of the chief securities against false witnessing is, that such an infamy follows, especially when servants swear against their masters, that a small matter cannot tempt even a bad man to so base a practice; but, if so great a sum were to be the reward of such villainy, it is hard to tell where it would stop.

"A couple of bad servants, dismissed for ill practices, might be tempted in interest, as well as revenge, to lay a probable story, and to carry it through by bold swearing: a great deal of this sort was but too much practised among us twenty years ago; and it is to be feared that such a bill as this would set the same things again on foot.

"Those who acquaint themselves with the Roman Historians, see in them what a sort of people the Delatores were; the encouraging them, especially servants against their masters, was reckoned amongst the greatest reproaches

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of the worst emperors: but, though Domitian made use of such vermin, it is set out with great pomp, and in very lively expressions, as the glory of Trajan's reign, that he freed Rome from that plague, and banished all those infamous betrayers of their masters. It is to be hoped, that a reign, which God delights to honour, shall have no such blemish cast on it: and that no encouragement shall be given to false accusations and perjury, which, the Lords apprehend, might follow, if so great a reward were offered as this bill proposes: they think the reward they offer is enough to encourage honest and well-minded men to discover what they may know; and do not think fit to lay before them temptations, that may be too strong in so corrupt an age.

"As for this Occasional Conformity, the Lords do not go about to excuse or to defend it; but they, who have observed the progress of those matters, and have borne a large share in these controversies, must acquaint the Commons, that it is no new practice invented to evade a law; it has been both the principle and practice of some of the most eminent among the Dissenters, ever since St. Bartholomew's in the year 1662; it is known that Baxter and Bates did still maintain it, and that several books have been writ about it: and as the fiercest of the Dissenters, who intended to keep up a wall of partition between them and the church, have opposed it much: so the party of all the Dissenters that came nearest the church, and of whom the greatest numbers have come over to it, were those that pleaded for it. Nor is it a certain inference, that, because a man receives the Sacrament in the church, he can therefore conform in every other particular; the office of the Communion is certainly one of the brightest and best composed of any that ever was in the church of God; the little exceptions that lay to the posture were so fully cleared by the rubric that is added, that it is indeed a wonder how any person should except to any thing in the whole office; but it does not necessarily follow that therefore every man, who is satisfied with this, should be likewise satisfied with every other part of conformity. There was a very learned and famous man, that lived at Salisbury, Mr. Tombs, who was a very zealous conformist in all points, but in one, Infant Baptism; so that the receiving the Sacrament does not necessarily import an entire conformity in every other particular, no more than a man who can subscribe to the two first articles of our religion, that are indeed the main ones, and contain the doctrine of the Trinity, and the incarnation and satisfaction of Christ, is by that concluded to assent to the rest of the 39; the Dissenters agree to the first, but refuse some of the last. This is likewise to be remembered, that, after Saint Bartholomew in 1662, Occasional Conformity was a step that carried many much further; from occasional conformity, it grew to a constant conformity, if not in the persons themselves, yet in their children; so the Lords now see some, descended from occasional conformists, espouse the cause of the church with much zeal.

"For these Reasons, the Lords do conceive the penalties in this bill to be excessive and unreasonable.

"As to the Amendment in the Preamble: The Lords have reason to insist on it; because the words left out by them relate to another clause, which they think ought not to stand in the bill. But that is not all.—The words left out by this Amendment contain a proposition, which they cannot assent to as true; for, as the law stands, every person to be admitted to any office, is not obliged to be conformable or receive the Sacrament; officers of inheritance, forest officers, non-commission officers in the fleet, and many others, are under no such obligations.

"The managers of the House of Commons themselves seem to admit the words too general to be maintained in strictness: and therefore they have laboured to qualify them by construction. That is an expedient which must be resorted to when untrue or improper words happen to be found in a law already made; But, when a law is making, it has not been usual to contend for keeping in words which are plainly liable to exception; especially in a case where the clause is unnecessery, and, the preamble sufficiently expresses the design of the law without it.

"The Lords insist on their Amendment which leaves out the words relating to the Corporation Act. They say, it cannot be disputed, but that the Test Act extends to all the considerable offices and employments in which the security of the government may be concerned. That law was made when the kingdom was under a just apprehension of danger to the church; and the expedient agreed upon as most like to secure her was, the placing all the considerable offices in the hands of her members: so that the design of the Test Act is the same with that of this bill.

"Experience has justified the measures taken by that law; and there has been no complaint that it was not extensive enough as to the several sorts of offices.—To encounter a practice, which it is supposed may be made use of to elude the true design of the Test Act; the Commons have proposed by this bill to restrain absolute persons in office from going to meetings; and the Lords agree with them, so far as relates to all manner of offices comprehended in the Test Act, which the Lords think is the right measure to go by.

"All offices which relate to magistracy (as well within corporations as without) are manifestly comprehended in the Test Act; and therefore the Lords have wondered to hear the managers of the House of Commons argue, that it is of consequence to secure the magistracy of the corporations in the hands of the churchmen; or to affirm, that, if this Amendment was agreed, dissenters may let themselves into the government of corporations, since it is directly otherwise.

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"The Corporation Act was made when the kingdom was just delivered from a long usurpation; and was principally founded on reasons peculiar to that time.—Indeed, nothing but so extraordinary a juncture could have excused the placing such extravagant powers in the hands of the commissioners appointed by that Act.—Part of the Act has been repealed; and there was no great regard had to it, at the time when a more effectual security was given to the church by the Test: The Lords go not about to weaken the force of the Corporation Act; but think it not reasonable to extend the penalties of this bill to the general and uncertain words of that law.

"The Managers for the Commons say, the words of the Test Act are as general as those of the Corporation Act: If so, we seem to be contending about nothing; since how general soever the words of the Test Act are, the Lords have agreed they shall stand in the bill.

"The words in the Test Act are universally understood; no doubt remains to what offices and persons it extends. It is not so as to the Corporation Act; the uncertainty of the words in that law determines the Lords to think they ought not to be the description of the persons to whom the bill should reach.

"They think themselves obliged to be more cautious in this matter, because the bill now depending does not only concern those who shall for the future come into offices, but such as are at present possessed of them.

"In Corporations there are many offices of a private and inferior nature; some have been obtained by purchase, some by long services, and men have attained to others in course; some of these are freeholds, many of them the whole subsistance of families, and perhaps have been enjoyed many years under an obedience to all such terms as the law now in being has prescribed: And the Lords think it hard to disturb men in their freeholds and possessions by new laws, unless the case be such, that the security of the government does appear to be manifestly concerned; where that does appear, the Lords can satisfy themselves to dispense with private considerations (as is seen by what they have agreed to in this bill); but they cannot go further.

"The Lords look on the penalties in this bill, as it was framed by the House of Commons, to be very excessive, and such as bear no proportion to the offence, and therefore they cannot agree to them.

"The practice of occasional conformity is not new; it is almost of the same date with the Act of Uniformity; it hath been a known dispute among the Dissenters, and vindicated in print by some of them, and practised by many of them, who had no thoughts of offices, and has been a means of bringing several persons entirely from meetings: the objection to this practice by those of the church of England has been but of late.

"The Lords do not go about to justify men who can come so far towards uniting with the church, and yet will stop there, any more than they do to justify any other of the points upon which the Dissenters continue their separation.

"And since there is reason to apprehend, that such a liberty as this may be perverted, to the eluding the law; the Lords have agreed to restrain it.

"They are willing to make it impossible for such men to keep in offices, because hypocrites would make use of such a liberty; but they are not willing to ruin persons utterly, on account of a practice that many well meaning men have been, and may be, led into, and which they think tends naturally to bring them over entirely to the church.

"The penalty of 100*l.* and 5*l.* a day, and that whole sum given to the informer, the lords think a dangerous temptation to perjury.

"Our law has branded informers with the hardest character; troublesome persons, who grievously charge, vex, and disturb the commons; this is the description the law has given of them.

"Judges must encourage these sort of men, according to the terms of the laws, when made; but legislators, when they are considering of laws to be made, must speak of these men as they are. So great a temptation will make the innocent almost as insecure as the guilty. Experience shewed this, in the instances of some of the most active informers, in prosecuting Dissenters on the acts against conventicles, who were convicted of perjuries against many persons; though there the temptation was nothing, comparable to what it would be if these penalties should stand.—And though the Commons have yielded to the Lord's Amendments, that two witnesses shall be necessary, and that the time of prosecution shall not be left indefinite; yet that will not be sufficient; for both those things were provided for in the Conventicle Act.

"And though the Commons have also yielded to shorten the time for the prosecution; yet the penalty may still amount to a very great sum, for the five pounds a day may go on for three months.

"The punishment of a total incapacity is the heaviest, next the loss of life; and yet it is to be inflicted for the first offence.

"The word employment is more general than any word the Test Act has. Such punishment ought only to be for a crime of the highest nature; and yet, going to a meeting is no crime as the law now stands; nor will it be a crime in any man who is not in office, when the bill is passed into a law.

"The Lords agree to that part of the penalty which answers the visible design of the bill, by making the going to a conventicle to be forfeiture of office. To go further, to ruin men's estates, to make them infamous (for what can be more infamous than such a disability?), they think is to exceed all bounds.

"The managers for the Commons say, there are greater penalties in other laws; it does not appear by any instances which have been given.

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These penalties are much heavier than in most of the laws about religion; but if that were true, what is to be inferred from thence, if the crimes be not the same in the heinousness of their natures? Justice and good policy requires there should be some proportion between the offence and the punishment.

"The Lords have quite another consideration of the penalties in this bill, and those of the Test Act.

"In the present case, an innocent man has only a sort of negative proof, to defend him from false witnesses; who may chuse to assign such a time and place for the fact, as they know the party can be least likely to defend himself.

"Whereas, in the case of the Test Act, the man who resolves to obey the law, which is to subscribe the declaration, and receive the Sacrament, has not only the liberty to choose his own witnesses of his receiving the Sacrament, and the attestation of the minister who officiates; but the whole is put upon record; so that when a man has complied with the law, he is beyond all possibility of suffering by a false accusation.

"There seems to be no occasion here to increase the punishment upon a second offence; for it does not depend upon the former, as in most cases where the penalty is increased for the second offence; for, when the office is gone, the person is under no legal restraint from going to conventicles.

"If he obtains a new office, he brings himself at the same time under the reach of this law, upon a new account; and if he offends again, he will lose that office, besides incurring the pecuniary penalty.

"The Proviso which is to qualify the incapacity is made so very hard, that it is a new instance of the great severity of the bill. A man, to set himself right again, must take more public shame to himself than the severest laws against Papists require to discharge all the penalties and incapacities of a popish recusant convict, as appears plainly, by perusing the several acts relating to that matter; and the Lords will always be tender of putting greater hardships on Protestant Dissenters than Papists.

"That no comparison ought to be made between the penalties the law had laid upon Papists for holding of offices of trust, without taking the Test and receiving the Sacrament, and the penalties to be laid upon Occasional Conformity, for holding their office after they have been at a conventicle.

"This difference of punishment, that ought to be observed between these two, is not upon the account that the errors of the one are much greater than the errors of the other, how true soever that is, but because the one depend upon a foreign power, and are subject to it; so the nation is really in danger if such men should hold employments, who must be looked on as public enemies, and as persons who receive directions from an authority that we are sure is ever contriving our ruin; but no such danger can be apprehended from men who have no other strength than what they have among ourselves, which we are sure can no way be compared to the strength of the established church.

"As to the Occasional Conformity; it will appear no such formidable thing, if we consider what the sense both of the church of England and of the church of Rome was of this matter upon other occasions.

"In the beginning of queen Elizabeth's reign, the Reformation and the Liturgy were put on a foot, to bring over the whole nation that had then a leaven of popery to concur in it: it had this effect, all the Papists of England came to church, and were occasional conformists; yet the church of England was not uneasy at this; they complained of no danger from it. But who was sensible of it? it was the pope; and he was in the right as to his own interest; for he saw what in time that occasional conformity would grow to; and therefore he put a stop to it, and by a bull condemned it.

"And indeed the church of Rome has shewed, by the methods of all their missions, that they apprehend no danger, but great advantage, from any step of the occasional conformity of protestants.

"They accept of any thing and encourage every thing of that kind; and we have all seen, by the fatal effects of their practice, that they are in the right, and gain their ends by it.

"As for the clauses about foreign protestants; there is great reason to give them all just encouragement; for, as they have brought among us many new manufactures, so they have carried them so far, that of late years we have exported to the value of a million of woollen manufactures more than was done in king Charles's reign before they came among us; and the putting them under apprehensions or discouragements may be a means to drive them to a country where they will be sure of an entire liberty.

"The book that goes under the name of Mr. De Wit shews, the Dutch reckon that the woollen manufactures can never have such a settlement among us as with them, because they who must work them cannot have so entire a liberty of conscience here as there: we have felt the happy effects of the liberty granted them in the last reign; and it is to be hoped, that nothing will be done in this, to impeach that, or to raise apprehensions and fears in the minds of men that are so useful to us in the most important article of our trade.

"As to the clause concerning universities; we are not to consider the danger they may be in under our present circumstances, but what may happen in another state of things; it is not so long since we saw what advantages were like to be taken against those learned bodies, if there had been such a law, to furnish those that were troubling them without any reason or pretence, with the handle that this bill might have given them without this clause; and therefore, the Lords think, they are too much beholden to

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those great foundations, not to take care of them, and think themselves bound to secure them even from remote and possible dangers; besides that the vice-chancellor and heads of houses, being men often of great dignities and preferments, may by a severe prosecution be ruined, unless secured by a clause.

"As for the clause concerning those societies that are engaged in taking care of the poor; the nation, and this city in particular, has seen such good effects of their care and industry, that it cannot seem reasonable to put any discouragement upon them. How many poor children do they take care of! They are by their means clothed and taught, and bound out to trades; and if some misled people join their assistance and charity to so great a work, shall they be hindered from it, or punished for it, if they have been so far mistaken as to be at a conventicle; but this clause has no relation to endowed hospitals, which are under peculiar statutes, and to which none of these people have any access; the law has taken care of these, and secured them; and this clause relates only to free and voluntary societies for such charities, which the Lords do not think fit to put any restraints, or to bar any from coming into them."

The Managers for the Commons, by way of reply to these Arguments urged by the Lords' Managers, said,

"That several of the Lords' Arguments were against the bill.

"That the Lords had agreed to the greater part of this bill; and therefore should confine themselves, and speak only to their own Amendments.

"That no time could be more seasonable for this bill than the present; because the church was now in no danger of popery, or of fanaticism; but good laws are to be made for posterity, and may be obtained most easily in the best reigns.

"That the right of election of members to serve in parliament is in those that are concerned in the government of corporations; and if they should, by this bill, be turned out of their employments, and consequently lose their votes in the elections; yet it cannot be said they lose their birth-rights, because no man is born a magistrate.

"That the Commons penalty bears a just proportion to the offence; and that all above 100*l.* is for an obstinate persisting in the crime.

"That the offender cannot be guilty through inadvertency; he must offend knowingly and willingly.

"That the Test Act gives 500*l.* a much greater penalty than that in this Act, to the informer; besides, that Act brings the offender under very great disabilities.

"That an innocent man is no more secure under the Test Act, than under this bill: the question must be always upon his acting or not acting, which does not depend upon the record; and a very violent prosecution has been known within few years against an alderman of Worcester, a constant conformist, only upon a nicety, and where there has been no fault in the party.

"That the trial must be by a jury, not in a summary way before a justice of the peace, as in some of our penal laws.

"That it was very plain, good protestants might be affected by prosecutions upon the Test Act."

Then their Managers left the bill with the Lords; and said, "They hoped the Lords would not let the public lose the benefit of so good a law."

Then the Managers returned to their respective houses. When it came to the final vote of 'adhering,' the Lords were so equally divided, that in three questions put upon different heads the 'adhering' was carried but by one vote in every one of them, and it was a different person that gave it in all the three divisions. Upon this, the bill was delivered to the Commons according to form, at a Free Conference, and they were told, that the Lords adhered to their Amendments. As the Commons likewise adhered to their disagreement with the Lords Amendments, the bill was lost for this time.*

* "While the Occasional Conformity-bill was depending, Daniel de Foe, who had been a hosier in the city of London, and had, some years before, published a severe satire, intituled, 'The 'True born Englishman,' now undertook to ridicule the immoderate zeal of the church-party, in a pamphlet called, 'The Shortest Way with 'the Dissenters: Or, Proposals for the Establish-'ment of the Church.' Some, on both sides, were at first amused with it, as questioning what was the design of it; but it was not long before the author's real intention was discovered. He began with such bitter reflections on the dissenters, and their principles, that it was taken for the work of a violent church-man for some time, and met with applause from some of that party in the two universities. The author, after his reflections, proceeds to tell the world, that the representatives of the nation had now an opportunity, and perhaps the only one they should ever have, to secure the church of England, and destroy her enemies, under the favour and protection of a 'true English 'queen:' That this was the time to pull up this heretical weed of sedition, that had so long disturbed the peace of the church, and poisoned the good corn: That, if it should be objected, that this renewing fire and faggot would be cruelty, and accounted barbarous, he answered, that it is cruelty to kill a snake or a toad in cold blood; but the poison of their natures makes it a charity to our neighbours to destroy those creatures, not for any personal injury received, but for prevention: Not for the evil they have done, but the evil they may do. And that, as serpents, toads, and vipers, are noxious to the body, and poison the sensitive life, so the dissenters poison the soul, corrupt our pos-

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Bill for the further Security of the Protestant Succession.] The Commons had now passed a bill in favour of those, who had not taken the oath abjuring the pretended prince of Wales, by the day that was named; granting them a year longer to consider of it; for it was said, that the whole party was now come entirely into the queen's interests; though, on the other hand, it was given out, that agents were come from France, on design to persuade all persons to take the abjuration, that they might become capable of employments, and so might in time be a majority in parliament; and by that means the Act of Succession, and the oath imposed by it, might be repealed. When the bill for thus prolonging the time was brought up to the Lords, a clause was added, qualifying those persons, who should, in the new extent of time, take the oaths, to return to their benefices or employments, unless they were already legally filled. When this was agreed, two clauses of much greater consequence were added to the bill. One was, declaring it high-treason to endeavour to defeat the succession to the crown, as it was now limited by law, or to set aside the next succession. This had a precedent in the former reign, and therefore it could not be denied now. It seemed the more necessary, because there was another person who openly claimed the crown; so that a further security might well be insisted upon. This was a great surprize to many, who were visibly uneasy at the motion, but were not prepared for it, and did not see how it could be resisted. The other clause was, for sending the abjuration to Ireland, and obliging all there (in the same manner as in England) to take it. This seemed the more reasonable, considering the strength of the Popish interest there. Both clauses passed in the house of Lords, without any opposition; but it was apprehended, that the Commons would not be so easy; yet, when it was sent to them, they struggled only against the first clause, that barred the return of persons, upon the taking the oaths, into places, that were already filled. The party tried their strength upon this, and, upon their success in it, they seemed resolved to dispute the other clause; but it was carried, though only by one voice, to agree with the Lords. When the clause relating to the succession was read, sir Christopher Musgrave tried, if it might not be made a bill by itself, and not put as a clause in another bill; but seeing the house was resolved to receive both clauses, he did not insist on his motion. Every body was surprized to see a bill, that was begun in favour of the Jacobites, turned so terribly upon them; since by it a new security was given, both in England and Ireland, for a Protestant successor.

Thanks of the House given to the Duke of Ormond, the Earl of Marlborough, and Sir George Rooke.] During this interval the House resolved *nem. con.* to give their Thanks to the duke of Ormond, sir George Rooke, and the earl of Marlborough. Which was done accordingly: To the lords Ormond and Marlborough, by a Committee appointed for that purpose: and to sir George Rooke from the chair, he being in his place. The Answer of the duke of Ormond was to this purpose:

"That it was the greatest honour which could be given a subject: that as for his part, he had done nothing, but what was his duty: that all the troops under his command behaved themselves very gallantly; and he desired to express his utmost thanks for the honour the house had done him."

The Earl of Marlborough expressed himself on the same occasion as follows:

"That nothing could add to the satisfaction he took in the queen's most gracious service, but the obliging and favourable sense which that house was pleased to express of them, (his endeavours perhaps) of which honour, no man could be more truly sensible than himself. That, our success was chiefly to be imputed to God's blessing upon her majesty's happy conduct, and the great bravery of her own troops, and those of her allies."

The Speaker's Speech to sir George Rooke, and his reply, are as follow:

"Sir George Rooke, you are now returned to this house, after a most glorious expedition; her majesty began her reign with a declaration that her heart was entirely English, and heaven hath made her triumph over the enemies of England: For this, thanks have been returned, in a most solemn manner, to Almighty God; there remains yet a debt of gratitude to those who have been the instruments of so wonderful a victory, (the duke of Ormond, and yourself, who had the command of the sea and land-forces.) In former times, admirals and generals have had success against France and Spain alone, but this action at Vigo hath been a victory over them confederated together: You have not only spoiled the enemy, but you have enriched your own country; common victories bring terror to the conquered, but you brought destruction upon them, and additional strength to England: France had endeavoured to support its ambition by the riches of India; your

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tenty, ensnare our children, destroy the vitals of our happiness, our future felicity, and contaminate the whole mass; and therefore they are to be rooted out of this nation, if ever we would live in peace, serve God, and enjoy our own.—The Commons, after the author and his design were discovered, ordered the pamphlet to be burnt by the common hangman, and de Foe to be prosecuted. He pleaded for himself, that he gave the violent church-men but their language, or, at least, the sense of their own expressions, when they talked of 'hanging 'out bloody colours and banners of defiance:' and shewed what many of their pamphlets and sermons, as well as their conversation tended to. But de Foe was fined 200*l.*, and put in the pillory. The earl of Nottingham is said to offer him mercy, whilst in Newgate, if he would discover who set him to write this pamphlet." Tindal.

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success, Sir, hath only left them the burden of Spain, and stript them of the assistance of it; the wealth of Spain and ships of France, are by this victory brought over to our juster cause. This is an action so glorious in the performance, and so extensive in its consequence, that as all times will preserve the memory of it, so every day will inform us of the benefit.—No doubt, Sir, but in France you are written in remarkable characters in the black list of those who have taken French gold; and it is justice done to the duke of Ormond, and your merit, that you should stand recorded in the registers of this house, as the sole instruments of this glorious victory; therefore the house came to the following resolution. Resolved, *nem. con.*, That the thanks of this house be given to the duke of Ormond, and sir George Rooke, for the great and signal service performed for the nation at sea and land: Which thanks I now return you."

To which sir George Rooke answered in the following terms:

"Mr. Speaker, I am now under a great difficulty how to express myself upon this very great occasion; I think myself very happy, that in zeal and duty to your service, it hath been my good fortune to be the instrument of that which may deserve your notice, and much more the return of your thanks. I am extremely sensible of this great honour, and shall take all the care I can to preserve it to my grave, and convey it to my posterity without spot or blemish, by a constant affection and zealous perseverance in the queen's and your service. Sir, no man hath the command of fortune, but every man hath virtue at his will; and though I may not always be successful in your service, as upon this expedition, yet I may presume to assure you, I shall never be the more faulty.—I must repeat my inability to express myself on this occasion; but as I have a due sense of the honour this house hath been pleased to do me, so I shall always retain a due and grateful memory of it; and though my duty and allegiance are strong obligations upon me, to do my best in the service of my country, yet I shall always take this as a particular tye upon me, to do right and justice to your service upon all occasions."

Mr. Colepepper's Petition.] During this interval, likewise, Mr. Colepepper, who delivered the famous Kentish Petition,* and was under prosecution for the same, petitioned the house, that proceedings might be stopped; upon which he was called before the house, and being asked, Whether he was sorry for the several scandalous, and seditious practices by him acted against the honour and privileges of that house, against the peace of the kingdom in general, and the quiet of his own country in particular: He replied, he was sorry. Upon which, a resolution passed to address the queen to stop proceedings, according to the prayer of the said petition.

The Queen's Message to the Commons, for an Augmentation of the Forces.] January 4, 1703. The Queen sent the following Message to the House of Commons:

"Her Majesty, having received several letters from the States General of the United Provinces, as also several memorials from their ambassadors, setting forth the great apprehensions they lie under, from the extraordinary preparations of France to attack them early in the spring, and the necessity, as they conceived, of making an augmentation of the forces of England and Holland, as the only means to prevent the immediate ruin, which threatened their country, was pleased thereupon to propose some expedients to the States General, which, she hoped, might have been of advantage to the common interest, and relieved them, in some measure, from their just apprehensions, without having recourse to her parliament: But those expedients, proposed by her majesty to the States General, not having produced the effect, she hoped for; and the States having again renewed their applications to her majesty, with more earnestness than before, to assist them, in this time of their danger, with an augmentation of her forces, as the only means to disappoint the effect of these great and early preparations, which the French are making against them; her majesty has commanded the several letters, and representations, which have passed between her majesty and the States General, upon this subject, to be herewith transmitted to you, that you may the better judge of the danger, which threatens them.

"Her Majesty conceives this matter to be of such great consequence, as indispensably obliges her to acquaint you with the present state of it, that she may have your advice upon it; not doubting, but you will take such measures upon this occasion, as may be most for the honour and advantage of her Majesty, the safety of her kingdoms, and the necessary support of her allies."

The Commons' Address to the Queen thereon.] In compliance with this Message, the Commons presented the following Address:

"Most gracious sovereign; We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, do beg leave to return your majesty our humble thanks for your majesty's most gracious condescension, in communicating to your Commons the several memorials, transactions and letters that have passed between your majesty and the States-general, for the augmentation of your majesty's forces, which are to act in conjunction with the forces of the States-general; by all which, your Commons are entirely convinced of your majesty's great tenderness for your subjects, in not laying a greater burthen upon them than the necessity of affairs does absolutely require.—And your Commons do humbly assure your majesty, that in case your majesty shall think it necessary to enter into any further negociation for encreasing the forces, which are to act in con-

* See vol. 5, p. 1250.

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junction with the forces of the States-general (for whose interest and preservation we shall always have the greatest regard) your Commons will enable your majesty to make good the same.—And your Commons do further crave leave humbly to beseech your majesty, that you will be pleased to insist upon it with the States-general, that there be an immediate stop of all posts, and of all letters, bills, and all other correspondence, trade and commerce with France and Spain, which your Commons are humbly of opinion is so absolutely necessary for carrying on the just and necessary war, wherein your majesty is engaged, to the interrupting the trade of your enemies, and reducing them to the greatest streights; that your Commons do humbly desire, that England may not be charged with the pay of such additional troops, but from the day when such stop shall be made by the States general."

The Queen's Answer.] To this Address of the Commons, her majesty was pleased to make the following Answer:

"Gentlemen; It is with great satisfaction, that I receive this Address, which enables me to join with the States general, in augmenting our forces, according to their desire. I make no doubt, but the condition, you mention, will be approved, since it is absolutely necessary for the good of the whole alliance; and I shall this night send directions to my minister in Holland, to concur with the States-general in providing the troops accordingly."

Narrative of the Commissioners for taking the Public Accounts, in relation to the Accounts of the Earl of Ranelagh.] The report of the Commissioners appointed to take the Public Accounts, was a business that took up much time this Session. They began with the Earl of Ranelagh as Paymaster-general of the Army, and drew up the following Narrative or Report of their Proceedings; which Mr. Bromley presented to the House of Commons on the 11th of November, viz.

"When your commissioners entered upon the execution of the trust, lodged in them by Act of parliament, they applied themselves, in the first place, to the examination of the general receipts and issues of the public revenue, for as long time past, as, they supposed, their commission would allow, and to the inspection of the particular management of those offices, through which the treasure of the nation is conveyed into the Exchequer; and though it is little more than seven months, since they were first constituted, and some time was necessarily spent in many previous preparations, before they could enter upon business, as well as lost afterwards by that interruption, which the calling of a new parliament occasioned, yet they will in few days be ready to make you a report of their proceedings upon these matters.

"They resolved also to enquire into the management of the receipts at the Exchequer, and the distribution of the money afterwards; but this being a large field, and a work of great extent, they chose chiefly to apply themselves to the two great branches, the Army, and Navy; for the services of which 47,674,039*l.* 1*s.* 3½*d.* have been paid to the several Treasurers and Paymasters, between the 5th of November, 1688, and Michaelmas last; of which the greatest part has not been at all accounted for.—Of this sum the earl of Ranelagh, Paymaster of the Army, has received 19,518,452*l.* 4*s.* 1*d.*

"Your commissioners began, as early as they could, to call upon his lordship, and the other officers concerned with the army, for those materials, they thought necessary, in order to the examining and stating his accounts; and being very sensible of his long experience, and great abilities, as well as of their own little practice in things of this nature, they endeavoured to collect such papers, and ask such plain questions, as must, if fairly complied with and punctually answered, lay all open to their view.

"That your commissioners might the better judge what was proper for them to ask of his lordship, they writ to him, April the 15th, for a true copy of his commission, together with such instructions, as he had at any time received, for the execution thereof.

"May the 15th, your commissioners issued a precept to his lordship, for accounts to be exhibited, on Thursday, the 25th of June, according to the schemes they prescribed him, of the balance remaining in his hands on the 5th of November, 1688; of all money he had received, between that time, and the 25th of December, 1701; of all deductions made from the regiments; and also of all his payments whatsoever.

"His lordship, in return to this precept, brought to your commissioners general abstracts of accounts with gross items of his payments, and such as were in no respect conformable to the method, they prescribed; and, among other things, his lordship urging the great pains and expence of time, it would require, to be so particular as they desired, that therefore the least trouble possible might be given him, your commissioners only insisted, that he should make up for them such regimental accounts, to the last of March, 1692, inclusive, as from that time he had been obliged to do by act of parliament. With this his lordship was sometimes pleased to say, he would comply, and immediately afterwards to affirm it to be impracticable. They argued, that it was impossible for him to make out debentures, for clearing the regiments to this time, if he had not had all his payments upon account to them before him; and that the gross sums, delivered in to your Commissioners, must arise from particulars. At last his lordship owned, that in the books of his office they were contained, with all his payments to, and for the use of, the forces, digested regimentally. Much time having been unprofitably spent in conferences and letters, that no more might be lost, nor his lordship put to the trouble of picking, as he

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called it, these payments out of his ledger, they desired, he would please to let them have the originals, and promised to take that labour off his hands.

"His lordship then began to dispute their authority to require any of these accounts, which had been laid before former commissioners, and some of which had been passed by the auditors: Though your commissioners must beg leave to observe, that his lordship had already brought them abstracts of these accounts and never disputed their authority, till they called upon him to lay before them such further particulars, as they thought absolutely necessary for the perfect examining and true stating, of them; and that his last account, for 15 months, ending the 31st of March, 1692, was not declared till after they had sent to him for his accounts, and very few days before he made his return.

"That your commissioners might be able to judge, whether the ledgers, in his lordship's office, would answer, what was expected from them, they sent, July the 2nd, a member of this commission, with one of the accomptants, to inspect them; but his lordship refused to suffer it, and, after taking more than 7 weeks, to consult his counsel (which he had promised to do in two or three days) whether, by law, he was obliged to comply with what your commissioners had desired, at last, August the 19th, he sent them two books, but at the same time acquainted them by letter, that he thought it both reasonable, and necessary, to take such abstracts, as might readily inform him, what they contained, should any misfortune happen to them: Upon which, your commissioners, taking into consideration his lordship's great care and caution, and the jealousies, he seemed to have of them, directed the books to be sealed up, and no use to be made of them, till the abstracts had been examined and compared.

"His lordship's clerks were so uncertain in their attendance, and so often ill, or out of town, that three weeks passed, before this could be finished; and then, upon your commissioners looking into them, it soon appeared, they were in no sort what they expected, or what his lordship had given them reason to believe they were.

"These disappointments discouraged not your commissioners, who desired his lordship once more to give himself the trouble of coming to them. With this he was pleased to comply; and they acquainted him, that they thought it impossible for them to discharge their duty faithfully, and to your satisfaction, unless they had the credits of the several regiments more particularly stated; and unless he was pleased to distinguish, what he paid in cash, and what he had deducted for poundage, hospital, arms, ammunition, transportation, bread, &c. His lordship said, that, if your commissioners would name any regiment, he could soon give them such an account of it; They then replied, if his lordship could do it in one instance, he must be able, in a little more time, to do it in all the rest; and pressing him for such accounts, he thought fit again to insist, that he was not obliged to give them any for this time; but being asked, if that was his final resolution, he said, he would look for those scraps of paper, to use his own expression, which Mr. Abbot perhaps might have left behind him, and endeavour to give them satisfaction. They let his lordship know, he should have immediately a precept, to this effect, from them; and accordingly, as soon as it could be dictated, and writ, it was dispatched to his lordship's office; but he had just before taken coach, and was gone to Cranborne; and from that time they have had no such account from him.

"Notwithstanding all these difficulties, that your commissioners have laboured under, from the delays, neglects, and imperfect accounts, they have received from the paymaster of the army, and the little satisfaction they have met with, in their enquiries, from those other offices, that were chiefly instituted, as checks and controlls upon the paymaster; yet, that nothing might be wanting, on their part, to discharge the trust reposed in them, they have examined, as well as they have been able, the paymaster's accounts between the 1st of January, 1687, and the last of March, 1692; and though they cannot pretend (to present) you with a perfect state of them, yet they shall humbly lay before you, what method they have taken, and what observations have occurred to them upon the said accounts.

"They have examined the earl of Ranelagh's Charge, which appears to consist of the following particulars:

	£.	s.	d.
Balance due from the Accomptant at the foot of the preceding Account. - -	3,985	13	8½
The Exchequer Charge - -	3,838,540	18	0½
What his Lordship voluntarily charges - - - - -	64,359	6	3
Interest received on Tallies, more than what his lordship brings to account - - -	4,314	8	3

"His lordship's Answer to the charge of interest, received on tallies, is, that these tallies were assigned over to several persons, who received the interest; and therefore he ought not to be charged with it. He alledges, that it has been his constant course, to write his name upon the back of the orders, without any formal assignment; that these orders were then delivered to such, as had a right to receive them, with all the interest due from the date of them; and that upon examination, it appears, that when the money, due on such orders, has been received at the Exchequer, acquittances have been written over the paymaster's name, as if he had received both principal and interest. Upon which, your commissioners observing what his lordship affirmed, they thought it proper to write to him, to come prepared with evidence, to justify this answer to their charge of interest; in return to which his lordship ac-

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quainted them, that Mr. Pigeon, his clerk, being out of town, he could not so soon be ready: And since that time they have never heard from him.

"Your commissioners have still charged him with this interest; and they beg leave to take notice, that the method his lordship uses in his assignments of tallies, appears to them a practice very liable to fraud, and capable of covering any; and since no date of assignment appears, nor other name, but his lordship's, or his agents, your commissioners conceive it their duty to charge him with all interest received upon the same.—If they are right in these particulars, then his lordship's charge for this time, as far as it has been in their power to state it, amounts to 4,344*l.* 8*s.* 3*d.* more, than he has made it.

"As to his lordship's discharge, they have at present, for the reasons before mentioned, only these following observations to lay before you: 1. That all the regiments, troops and companies, which were in the service of the late king James, and which it is notorious, had many Popish officers and soldiers in them, and were broke, and dispersed, upon the earl of Feversham's disbanding the army on the 13th of December 1688, are, by warrant upon his lordship's certificate of debentures, paid compleat to several days in January, February, March, and April, following. 2. That the warrants, for several such payments, bear date, some a year, others two years, after the said regiments, troops, and companies, were disbanded. 3. That there are several warrants, for paying compleat numbers allowed on the establishment, notwithstanding any defect in, or want of, muster-rolls. 4. That there is a warrant, dated the 17th of October, 1689, to the auditors of the Imprests, to allow his lordship the sum of 172,340*l.* which he had direction from his majesty to pay to several persons, without deductions. The auditors are not to charge the persons aforesaid with these sums or any part thereof; his majesty reserving the examination of the particular disbursements to himself, or to such, as he shall appoint for that purpose. 5. That his lordship discharges himself of several sums, paid for levying the lord Mordaunt's (now earl of Peterborough) and sir John Guise's regiments, although your commissioners find, one of the articles in the account, laid before this house, of the charge, the States General had been at in the revolution, and upon which you paid them 600,000*l.* is for raising the regiments of the lord Mordaunt, sir Robert Peyton, sir John Guise, and others. And here your commissioners must observe, that the earl of Leven's regiment is paid from the 5th of November, 1688, the earl of Monmouth's from the 10th, and that of colonel Lutterell's, from the 23d, of the said month, though his late majesty landed in England on the 5th of November, five days before the second, and nineteen days before the last. Besides, as to the payment of 1582*l.* 2*s.* to the earl of Monmouth, your commissioners find the vouchers signed, and, they believe, writ, by the said earl himself; in which it is expressed, that part of this sum was received from Mr. Row, part from the Dutch paymaster, and the rest from the earl Ranelagh: Now his lordship hath surcharged himself with what was paid by Mr. Row, but not (as he ought to have done) with what was paid by the Dutch paymaster. 6. That, whereas his lordship discharges himself of several sums, paid by warrant to captain Matthew Smith, captain Anthony Power, and captain Henry Davies, and has passed his account for the same, by vouchers under their hands, the said captains Smith and Davies have made positive oaths, that their hands are forged; and your commissioners have reason to suspect, that captain Powers's hand is so too; and, as an undeniable evidence of this fact, in what concerns captain Smith it appears to your commissioners, that, after his lordship had made use of the voucher, in order to stop a complaint, which was coming into this house, he made up captain Smith's account, and paid him the balance. 7. That some of his lordship's vouchers for payments are only loose papers, put into warrants, with a name, and nothing more, writ on them. 8. That the payments differ very much, in many particulars, from the establishments: That there are rasures in some warrants, and very extraordinary payments directed in others; of which your commissioners will give you the instances, when you please to require them. 9. That his lordship charges himself, for interest received 916*l.* due intermediately upon tallies, transferred over to sir Joseph Herne: your commissioners find a warrant, signed by the late king, for allowing the earl of Ranelagh this sum, as paid to George Clark, esq. for secret service, together with another sum, paid to Rudolph Kien, of two thousand pounds, without account; and also a privy seal, dated the 18th of June last, for the auditor to allow his lordship the same, upon his accounts: And, upon further enquiry, it appears to your commissioners, that the said sum of 916*l.* (the only interest his lordship brings to account) was never paid, as is pretended, to George Clark, esq. but his name was only used in trust for his lordship, who had the same to his own proper use. 10. That, whereas his lordship discharges himself by payments to colonel Cunningham, and to lieutenant-colonel St. John, each 2,000*l.* your commissioners are not very well satisfied with his lordship's vouchers for the same, and are making further inquiry into that matter; but, in the mean time, they think themselves obliged to acquaint you, that col. Cunningham hath made oath, that he repaid to the earl of Ranelagh 1,500*l.* or thereabouts, in part of the 2,000*l.* which had been imprested to him; and this, your commissioners conceive, his lordship ought to have surcharged himself with.

"To their observations, upon these accounts, your commissioners have only this

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further to add, that the earl of Ranelagh makes the balance of his account, due to himself, 185,268*l.* 14*s.* 0*d.*

"The army was cleared to the last of March, 1692; and therefore your commissioners made this the first period of time for their examining the paymasters accounts. They have not been able to proceed much further upon those, which follow, and which seem to be laid before them very confused and imperfect; for, upon the little inspection they have made into them, they observe, his lordship's discharges are generally by payments of gross sums, upon account: Others by payments to several persons, for several services, and on several occasions, without specifying the services, or occasions. Particularly, he discharges himself, in some instances thus:

	£.	s.	d.
Paid to several persons, for especial services, and for sundry disbursements for especial services, relating to the forces - - - - -	27,150	16	3
Paid to several persons, for contingencies of divers natures - - - - - - -	50,929	17	3½
To Monsieur Schuylenburg, for several sums advanced by him, for several services relating to the forces - -	76,477	8	0½

"There are several other very great sums, charged for loss by remittances, and for secret services, without account; but with these, and others of the like nature, your commissioners will not at present trouble you: They only beg leave further to observe, that his lordship has forgot to carry a balance, due from him, of 20,792*l.* 7*s.* 1*d.*

	£.	s.	d.
And that, in another account, he makes the balance, due to himself - - - - -	58,896	12	0
But has carried to the following account - - - - -	98,409	13	11
Which, according to his own calculation, is more than it ought to be - - - - -	39,513	1	11

"As your commissioners, from these, and other the like, instances, see, that these subsequent accounts are as extraordinary, and no less imperfect, than the former; so they have great reason to apprehend, that, when they shall call upon his lordship, to lay others before them, in such a method, as they conceive most necessary, for their due examining and stating of them, it cannot be complied with; because, when they sent two of their own members with a precept to his lordship, to see whether he had kept such a register of his regimental accounts, as he was required to do by a clause in an act, passed in the 4th and 5th of the late king and queen (for punishing officers, and soldiers, who shall mutiny, or desert) and continued, by several other acts, till the 10th of April, 1698, they reported, that there was no such register kept; that neither his lordship, nor those he employed, owned they knew of the clause; but that his lordship desired to know, where it was to be found, and said, he would read it, before he slept. They reported also, that his lordship seemed as ignorant of the like clause, passed in another act of the last session, against mutiny and desertion; and that he has kept no such register in his office.

"This Narrative, and these Observations, your commissioners humbly submit to the consideration of the house.

W. BROMLEY.	GODF. COPLEY.
H. ST. JOHN.	J. BRYDGES.
T. COKE.	R. BYERLEY.
FR. SCOBELL.	

The Earl of Ranelagh's Answer to the said Narrative.] On the 30th of November the earl of Ranelagh presented to the House of Commons his Answer to the Narrative, and Objections, of the Commissioners for taking the Public Accounts, relating to his Accounts; and the same was read, and is as followeth: viz.

The ANSWER of Richard earl of Ranelagh, Paymaster General of her Majesty's Forces, &c. To the Narrative, and Objections, relating to his Accounts, contained in a Paper, under the hands and seals of the seven Commissioners of Accounts, and by them delivered to this honourable House on Wednesday, the 11th day of this instant November, 1702.

"The said Paymaster, in the first place, returns his humble thanks to this house, for their having ordered him a copy of the said Narrative, &c. and a time to answer it.

"In the next place, he must say, that he cannot but think himself very unhappy, to fall under so severe animadversions, as are contained in the said Narrative, after his having been 17 years in his office, without any material objection made to his management, either by the six former commissions of accounts, or by any other person whatsoever.

"In the 3d place, he must observe to this honourable house, that his office of Paymaster is altogether ministerial: that, though, by virtue of it, he hath received vast sums of the public revenue, no less than one-and-twenty millions, and upwards, between the 1st of January, 1685, and this day, yet he hath no power to issue the same, but according to establishments, regulations of subsistence, and warrants signed by the crown, or according to the directions of the Lord High Treasurer, or Commissioners of the Treasury: that he never receives any money from the Exchequer, but by orders of the Treasury; and most commonly, if not always, the uses, to which the sum, so ordered, is to be applied, are particularly set down and expressed in the same order.

"In the 4th place, he must observe, that, during the said 17 years of his management, he hath had the misfortune to bury three depu-

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ties, and all other the officers, which he found in his office, when he first entered upon it; by which means his books are not in so good order, as he heartily wishes they were; but, whatsoever trouble this creates to him, he will use his utmost care, that the public shall not suffer by it.

"In the 5th place, he must observe, that several millions of the aforesaid sum, received by him, were issued and paid out by his deputies in Holland, Flanders, Germany, and the West Indies: that this variety of payments, in so many places, hath, as may easily be believed, begot some confusion in his vouchers; which, howsoever, he doth not doubt to set right, though with great trouble.

"What the said Paymaster hath next to observe, is, that the paper, to which he is to answer, contains, first, a narrative of proceedings between the seven commissioners, and him: secondly, ten observations of theirs upon his accounts, passed, and declared: thirdly, some animadversions, not numbered, on his accounts, not yet passed.

"As to the Narrative, the said Paymaster answers, that, pursuant to a letter of theirs, dated the 15th of April last, desiring a true copy of his commission, he sent them his two original patents, under the Great Seal of England; the one, from the late king James; the other, from the late king William.

"He owns, that he received a precept from them, dated the 15th of May last, requiring him to exhibit to them, on Thursday, the 25th of June following, according to the schemes therein prescribed, the balance remaining in his hands on the 5th of Nov. 1688, and accounts of all his receipts, and payments between that time, and the 25th of Dec. 1701.

"He saith, that, in pursuance of his precept, he attended the said commissioners on the day appointed, and then delivered to them a paper, intituled, A State of the Accounts of Richard earl of Ranelagh, Paymaster-general of her majesty's forces, &c. from the 1st of January, 1685 (on which day he first entered upon the execution of that office) to the last of March, 1692, inclusive, being six years and three months; as also a state of the poundage, deducted by him within the same time: the said paper telling them, that, by that State, they might see, at one view, the whole of his receipts, and payments, within that time; which could not be clear to them by any State, beginning from the 5th of November 1688, as they desired; since the balances of his accounts, preceding that period, would not appear. He likewise told them, that his accounts, for the said six years and three months, were, in number, seven, and were all actually passed, and declared; and that he had a *quietus est* upon each of them: and he then delivered to them true copies of the said seven accounts; as also an abstract of his account, lying before Mr. Auditor Bridges, from the 1st of April, 1692, (being the next day after his last account, declared, ended, as aforesaid) to the last of September, 1695, inclusive; and an abstract of his account, lying before Mr. Auditor Done, from the 1st of October, 1695, to the 25th of March, 1699, inclusive; each of the said two accounts being for three years and an half, in all, seven years; his receipts, and payments, for that time, being divided into the said two accounts, by order of the then Lords Commissioners of the Treasury, that so both the auditors might proceed to examine, and state, the said two accounts, at one and the same time, for the more speedy dispatch of them. He also then told them, that he was making ready three further accounts, which should contain all his receipts, and payments, from the said 25th of March, 1699, to the 25th of December, 1701, being two years and three quarters: so that, by these twelve accounts, viz. the said seven declared accounts, the said two accounts, lying before the two auditors, and the said three accounts, preparing, they might see all his receipts, and payments, from the 1st of January, 1685, to the 25th of December, 1701, being 16 years; he desiring nothing more, than to lay all his public transactions plainly before them: and at the same time he delivered to them a current account of his receipts, and payments, from the said 25th of December, 1701, to the 24th of June, 1702; he being required so to do by two precepts of theirs: and, on the 29th of June last, he sent them, as they desired, the original parchment duplicates of the said seven declared accounts, which the said Commissioners, however, are pleased to call general abstracts of accounts, with gross items of his payments.

"On the 26th of September last he sent to them the three accounts, which, he told them on the 25th of June, he was making ready; which contained his receipts, and payments, from the said 25th of March, 1699, to the 25th of December, 1701; and which he could not possibly make ready sooner, by reason of the multiplicity of his other public business; particularly, by his being obliged, by act of parliament, to make out all the debentures, payable out of the forfeited lands in Ireland, by the 30th of September last; which was a very tedious, troublesome, and voluminous work: and on the said 26th of September last he likewise sent them a current account of his receipts, and payments, from the 24th of June last, to the 1st of September last: so that he can safely say, he made as much haste, as possibly he could, to comply with their several precepts; and he did then think, that, having thus laid all his accounts before them, they would have applied themselves to examine, and state, such of his accounts, as were not passed, and declared; which were five in number, and contained, as aforesaid, all his receipts, and payments, from the 1st of April, 1692, to the 25th of December last, being nine years and three quarters; his receipts, for that time, amounting [to] 14,798,215*l.* 0*s.* 5*d.* But the said Paymaster soon found, that the Com-

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missioners, instead of proceeding upon his said five accounts, not yet passed, were resolved to lay open and unravel four of his seven accounts, passed, and declared, and upon each of which he had a *quietus est*; the said four accounts beginning from the 1st of January, 1687, and ending the last of March, 1692; for, on the 27th of June last, being but two days after he had delivered them so many of his accounts, as aforesaid, they sent him a precept, to make up regimental accounts, for the time of the said four accounts, in the same manner, as he was required to do by act of parliament, and had done from the 1st of April, 1692, to the 25th of March, 1699; and the next day, when, by summons he waited on them in their office, they insisted upon this direction: to which the Paymaster answered, that the Act, which required regimental accounts for the time aforesaid, did not look back beyond the 1st of April, 1692: that the reason of its requiring such accounts for that time, was, because the army had not been cleared between the said 1st of April, 1692, and the said 25th of March, 1699; which reason could have no operation in what they now directed, since the army was cleared to the last of March, 1692: that, when he passed the said four accounts before the auditors, he had delivered up all his vouchers, relating to them; which made it almost impracticable for him to comply with their directions: that, though his books might, in some measure, guide his compliance, yet, he could not, in justice to himself, and family, consent to lay open his accounts, upon which he had his *quietus est*. He likewise told them then, or soon after, that he did not think (with great submission to them) that they had any authority to unravel passed and declared accounts; and that none of the six former Commissions of Accounts had ever pretended to do it.

"Upon this they required him to send them the original ledgers of his office, from the 1st of January, 1687, to the last of March, 1692; that so they might extract and frame out of them such regimental accounts, as they desired. To this he answered, that he had no distinct ledgers for that particular time: that leidgers were no public books, but only helps to an accomptant, to settle accounts with his cashier: that they could neither charge, nor discharge, an accomptant, before an auditor; and therefore they were never offered, or accepted, as vouchers: and after many other arguments, of this kind, he told them, that, since it was plain, they required them, in order to ravel into, and lay open, his said four accounts, passed, declared, and upon each of which he had a *Quietus est*, he could not part with them; neither did he think (with great submission) they had any authority to require them, none of the six former Commissions of Accounts having ever demanded them.

"On July the 2d they sent one of their number to his office, with a precept, directing the Paymaster, and his deputy and deputies, his clerk, or clerks, belonging to his said office, to permit and assist the said commissioner, and Mr. Cartwright, their army accomptant, to inspect the ledgers and journals of the office, which contained the receipts, and payments, from the said 1st of January, 1687, to the last of March, 1692: to which precept he returned an answer, which the said commissioner writ down; the substance of which was, That he hoped, they would not take it ill, if he did advise with counsel, whether any of his accounts, passed by the auditors, could be laid open by their authority, especially, since the said accounts, before declared, had been laid before former Commissioners of Accounts. Notwithstanding this answer, they sent another precept to him, dated the very next day, requiring the said books to be laid before them the next morning: and by a letter, dated the day following, being a Saturday, he was summoned to attend them in their office on Monday morning, where and when they repeated their earnestness to have the said ledgers, and he still insisted to have time to advise with his counsel: upon which they told him, that, from that day, they intended to make a recess for three weeks, or a month; that they hoped, he would advise with his counsel in the mean time; and that, if he was advised to deliver the said ledgers, their secretary, Mr. King, would be in the way to receive them, and to give a receipt for them. To this he answered he would lose no time in taking advice, nor in delivering his books, if advised thereto. Accordingly, the Wednesday following, he endeavoured to meet with two gentlemen, who have always been his counsel, but found, they were both gone out of town, to attend their elections; where they staid till the beginning of August; on the 4th of which the commissioners, being likewise returned, sent him a precept, requiring him, on Saturday following, to exhibit his said original ledgers to them, or his reasons, in writing, why he refused them; which order they repeated, in their letter of the 10th of that month. On the 19th of that month he sent them a letter which told them, that the reason, they had not sooner heard from him, was, his counsel's being out of town: that, though, upon their return, they had both agreed in opinion, that the present commission of accounts gave no authority to lay open any account, passed, and declared, which had been before the former commissions of accounts, nor to demand the ledgers of any accomptant (they being not public books) yet, to shew his readinesss to give them any satisfaction he could, he had sent them his two original ledgers, from the 1st of January, 1685, to the last of March, 1692; and, that he should have sent them sooner, had he not thought it reasonable to take such abstracts of them, as might inform him, what they contained, should any misfortune happen to them: which word "Misfortune" he solemnly avers, was not used by him, out of any jealousy of the honourable commissioners, but

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for the sake of their army accomptant, who hath most maliciously and scandalously behaved himself towards the said Paymaster for some years past.

"The foregoing particulars, though many, the said Paymaster thinks necessary to lay before this honourable house, that they may be thereby truly informed, from whence the disputes and differences have arisen between the commissioners, and him. As to his part, he humbly leaves it to your judgment (to which he will always readily submit) whether he was in the right, to insist, that they have no authority, by their commission, to lay open any account passed, and declared, and which hath heretofore been examined by any of the six former commissions of accounts: but, that it may not be thought, he starts this question, in order to shelter himself against answering the particular objections in their Narrative, he will now hasten to return a particular answer to each of them.

"As to the charge of his four declared accounts, which begin from the 1st of January, 1687, and end the last of March, 1692, the commissioners make it consist of the following particulars:

	£.	s.	d.
Balance, due from the Accomptant, of the preceding Account - - - -	3,985	13	8¼
The Exchequer Charge - -	3,838,540	18	0¾
What his Lordship voluntarily charges - - - -	64,359	6	3
Interest, received on Tallies, more than what his Lordship brings to Account -	4,344	8	3

"To this the said Paymaster answers, that he makes no objection to the first of the said four sums, being 3,985*l.* 13*s.* 8¼*d.* nor to the third of the said sums, being 64,359*l.* 6*s.* 3*d.* but to the second, being 3,838,540*l.* 18*s.* 0¾*d.* he objects; and saith, that this sum, by the auditors charge, is but 3,791,080*l.* 0*s.* 8¾*d.* which is short of the commissioners said sum by 47,460*l.* 17*s.* 4*d.* The reason of which difference is, because the said 47,460*l.* 17*s.* 4*d.* though received from the exchequer in January, 1687, yet it was issued to him, to clear the establishment to the last of December, 1687, and he is charged with it in his account then ending; and consequently, he ought not to be charged with it in his account from that day: and the right honourable the lord Hallifax, when he delivered to the commissioners his account of the Paymaster's receipts, between the 1st of January, 1687, and the last of March, 1692, told them, that this was the truth of the fact; and, for a further confirmation of it, the total of the Paymaster's charge, from the exchequer between the 1st of January, 1685, and the said last of March, 1692, agrees to a farthing, with the total, charged by the auditors for that time, which is all taken into his seven declared accounts.

"To the 4th sum he likewise objects, being 4,344*l.* 8*s.* 3*d.* alledged to be received by him for interest on tallies, more than he hath accounted for; because he is positive, he never received that sum, nor any part of it; but the said sum was received by the several persons, to whom these tallies were assigned by him; who had a right to receive them, with all the interest due from the date of them. He further saith (as the Commissioners have very faithfully reported) that his constant course hath been, as it always was in the Pay-Offices of the army and navy, to write his name only upon the back of the orders, without any formal assignment; and that, upon examination, it appears, that when the money, due on such orders, hath been received at the Exchequer, Acquittances have been written over the Paymaster's name, as if he had received both principal and interest. This he hath discovered in several orders, which, in part, make up the said 4,344*l.* 8*s.* 3*d.* and he is in pursuit of the rest. In the mean time he humbly conceives, he ought not to be charged with that sum, in regard that, by a clause in an act, for making good deficiencies, passed in the last parliament, the account of interest, received by paymasters (if any) is to be brought into their final accounts.

"And this is all the said Paymaster hath to offer, in answer to that part of the Commissioners narrative, which relates to the charge of his four declared accounts, from the 1st of January, 1687, to the last of March, 1692.

"As to the discharge of his said four accounts, their Observations, and his Answers to them, are here set down in order, as follows:

First, that all the regiments, troops, and companies, which were in the service of the late king James, and which it is notorious, had many popish Officers and Soldiers in them, and were broke, and dispersed, upon the earl of Feversham's disbanding the army on the 13th of December, 1688, are by warrants upon his lordship's certificates of debentures, paid compleat to several days in January, February March, and April, following.

"To this observation the said Paymaster answers, and agrees, that there were several popish Officers and soldiers, in the regiments, troops, and companies, which were in the service of the late king James: he likewise agrees that several of the said regiments were dismissed by the earl of Feversham on the 13th of December, 1688: but he saith, that the late king, the then Prince of Orange, did the very next day issue a declaration, setting forth, that, he being informed, that divers regiments, troops, and companies, had been encouraged to disperse themselves in an unusual and unwarrantable manner, whereby the public peace was very much disturbed, he had thought fit thereby to require all colonels, and commanders in chief, of regiments, &c. to call together the several Officers, and Soldiers, belonging to their respective regiments, in such places, as they should find most convenient for their rendezvous, and there to keep them in good order and discipline,

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"That, in pursuance of this declaration, most (if not all) of the said regiments, so dismissed, did re-unite, and were kept in good order and discipline; and when his late majesty did think fit, soon after, to disband several of the late king James's forces, none of the said disbanded regiments, troops, and companies, were paid compleat, but a deduction was made, for what was due to their popish Officers, according to the method prescribed by his said late majesty; and the same care was taken, in paying the remainder of the late king James's forces, which his late majesty thought fit to continue in his service; none of which were paid compleat (as this observation alledges) there being a deduction made also, for what [was] due to their popish Officers, as by a list of their said deductions will appear: and all the certificates of debentures, made, by the said Paymaster, for the payment of the said forces, contrary to the usual method (of which this observation seems to complain) were so made pursuant to several warrants under his late majesty's hand, positively directing them to be so; as by copies of the said warrants will fully appear, the originals thereof being in the hands of the said Commissioners.

Secondly, that the warrants, for several such payments, bear date, some a year, others two years, after the said regiments, troops, and companies, were disbanded.

"To this the said Paymaster answers, that the private soldiers of a regiment always receive, by way of subsistence, their full pay, except what reserved for their clothing; and the clothing, and subsistence, of the non-commissioned Officers, leaves but a small matter due to them; which, if paid, as generally it is before, or upon, their disbanding, there remains only a debt due to the commissioned Officers; for the payment of which, warrants are seldom, or never, prepared, till there is money ready to pay them; which many times there is not, till a year or two after the disbanding: witness the regiments, disbanded upon the peace at Reswick; where only the subsistence was cleared to the common soldiers, and a bounty-money given them; and non-commissioned Officers being cleared, and a bounty-money given them also (which a small sum effected) the commissioned Officers were left unpaid; and so they are to this hour, there being no warrants to clear them, although it is full five years, since they were disbanded.

Thirdly, that there are several warrants, for paying compleat numbers allowed on the establishment, notwithstanding any defect in, or want of, muster-rolls.

"To this observation the said Paymaster answers, that warrants, for paying the forces, are never prepared by the Paymaster, that bein the work of the Secretary at War; and if warrants are signed, directing the Paymaster to pay compleat, according to the establishment, notwithstanding defects in, or want of, muster-rolls, it is his duty to obey such warrants, and to pay accordingly.

Fourthly, That there is a warrant, dated the 17th of October, 1689, to the auditors of the imprests, to allow his lordship the sum of 172,340*l.* which he had direction from his late majesty to pay to several persons, without deduction. The auditors are not to charge the persons aforesaid with these sums, or any part thereof; his majesty reserving the examination of the particulars to himself, or to such, as he shall appoint for that purpose.

"This observation seems to complain of the warrant mentioned therein, and not of the Paymaster; who certainly paid all the sums, contained in the said warrant, upon proper directions, and delivered to the auditor authentic vouchers for the same; and though he need say no more, to justify himself, yet, for the vindication of the warrant, he begs leave to set down here the particular sums, mentioned therein, which, together, make up the said 172,340*l.* and the nature thereof. The sums are, as follow:"

To my lord Portland, by the name of Wm. Bentinck, 1,000*l.*

"This sum was paid to his lordship on the 22nd of February, 1688, for the use of his majesty's privy purse, by direction, in writing, from the then Lords Commissioners of the Treasury."

To George lord Dartmouth, 700*l.*

"This sum was paid to his lordship on the said 22d of February, 1688, and by the like direction, for transporting the late king James's horses, who had desired, they might be sent after him; which his late majesty readily agreed to."

To Henry Powle esq., Speaker, 1,140*l.*

"One thousand pounds of this sum was paid on the 26th of January, 1688, for his equipage-money as Speaker of the then Convention; and the remaining 140*l.* was paid him for his allowance, as such, for 28 days, at the usual rate of 5*l.* a day; the whole being paid by direction, in writing, of the Treasury."

To Peter-Isaac, 6,000*l.*

"This Peter Isaac was steward to his late majesty's house, when prince of Orange; and this sum was paid him, for that use, by three several payments, in the month of January, 1688; all by direction, in writing, from the then Lords Commissioners of the Treasury."

To Mrs. Anne Van Golstein, 1,000*l.*

"This gentlewoman was one of the late queen's dressers; and this sum was paid her on the 22nd of Feb. 1688, for her said majesty's service, by an order of his late majesty in the Treasury Chamber."

To Jacob Vander Esch, esq., 162,500*l.*

"This gentleman, as every body knows, was Paymaster to his late majesty's Dutch forces, from the time they first landed in England; and the aforesaid sum was paid to him by the English Paymaster, for their use, at several times, between the 31st of December, 1688, and the 12th of April following, by directions, in writing, from the Treasury.

"So that the sums, mentioned in this Warrant, are six in number. The five first (which

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make together 9,840*l.*) may seem improper to be paid out of the pay-office; but the reason, they were so, was, because there was no privy seal in being, but that of the Paymaster's of the army, when these payments were directed; and no body can think, that any of these five sums were proper to be accounted for but to his late majesty, or such, as he should appoint for that purpose: And as to the 6th sum, being the great sum, paid to Vander Esch, it is well known, that his late majesty would not, for many years after his accession to the crown, suffer his Dutch forces either to be mustered, or paid, but according to their own method; and therefore, not only in this warrant, but in several subsequent warrants, relating to the payment of his said Dutch forces, his said majesty always reserved the said Vander Esch's accounts to his own examination."

Fifthly, That his lordship discharges himself of several sums, paid for levying the lord Mordant's (now earl of Peterborough) and sir John Guise' regiments, although your Commissioners find one, of the articles, in the account, laid before this house, of the charge, the States-General had been at in the revolution, and upon which you paid them 600,000 *l.* is for raising the regiments of the lord Mordant, sir Robert Peyton, sir John Guise, and others. And here your Commissioners must observe, that the earl of Levinz' regiment is paid from the 5th of November, 1688, the earl of Monmouth's from the 10th, and that of colonel Luttrell's from the 23rd, of the said month, though his late majesty landed in England on the 5th of November, 5 days before the 2d, and 19 before the last. Besides, as to the payment of 1,582 *l.* 2 *s.* to the earl of Monmouth, your Commissioners find the vouchers signed, and, they believe, writ, by the said earl himself; in which it is expressed, that part of this sum was received from Mr. Row, part from the Dutch Paymaster, and the rest from the earl of Ranelagh: Now his lordship has surcharged himself with what was paid by Mr. Row, but not, as he ought to have done, with what was paid by the Dutch Paymaster.

"To this observation the said Paymaster answers, That he has lately seen an account, laid before the house of Commons on the 14th of March 1688, of the charge, the States General had been at in his late majesty's expedition for England, for which that house paid them 600,000 *l.* in which account there was this following article: "Several charges to those, that followed his majesty, and to the forces, that came over, and also to the raising the regiments of the right honourable the lord Mordaunt, sir Robert Peyton, sir John Guise, and others, 250,000*l.* guilders."

"But the Paymaster never yet heard, nor indeed was it any ways material for him to enquire, what part of that sum was paid to the three colonels, mentioned in that article, for raising their regiments. Sure he is, that what he charges, as paid for levy money to the said three colonels, was a very inconsiderable sum, and not sufficient according to the lowest allowance, to raise three companies; for what he charges in his 16 months account, ending the last of April, 1689, to which this observation refers, is in all but 300*l.* viz. 100*l.* to my lord Monmouth, 100*l.* to sir John Guise, and 100*l.* to colonel Francis Luttrell; and his late majesty's warrant, which directs the allowance of these three sums, saith, that he was graciously pleased to allow the said three colonels the said 100*l.* each, as levy money, for completing their respective regiments: So that nothing is charged by the Paymaster, for raising the said three regiments. And as to that part of this observation, which saith, that my lord Levin's regiment is paid from the 5th of November, 1688, the earl of Monmouth's from the 10th, and that of colonel Luttrell's from the 23rd, of the said month; the Paymaster answers, that he was positively directed, by warrant under his late majesty's hand, to compute the said three regiments from these respective days, as by the said warrant will appear. And as to the objection, which closes this 5th observation, viz. That the Paymaster ought to have surcharged himself with what the Dutch Paymaster paid my lord Monmouth in part of the 1,582*l.* 2*s.* as well as he hath surcharged himself with what paid by Mr. Row, in part of that sum; the Paymaster answers, that he cannot imagine, how the Dutch Paymaster's name came to be mentioned in the said earl's acquittance; nor can the said earl (who has been spoke to in this matter) recollect, how he came to mention him therein: Besides, it appears by a certificate, hereunto annexed, under the hand of Mr. Sohinus, who was deputy to the Dutch Paymaster from the 5th of Nov. 1688, that the said Paymaster never paid my lord Monmouth any money whatsoever, for his regiment, between the said 10th November, 1688, and the last of April, 1689."

Sixthly, That, whereas his lordship discharges himself of several sums, paid by warrant to captain Matthew Smith, capt. Andrew Power, and captain Henry Davis, and hath passed his account for the same, by vouchers under their hands, the said captains Smith and Davis have made positive oaths, that their hands are forged; and your Commissioners have some reason to suspect, that captain Power's hand is so too; and, as an undeniable evidence of this fact, in what concerns captain Smith, it appears to your Commissioners, that, after his lordship had made use of the voucher, in order to stop a complaint, which was coming into this house, he made up captain Smith's account, and paid him the balance.

"To this observation the Paymaster answers, That there was a warrant, signed by his late majesty, dated the 28th of February 1688, directing him to pay to the aforesaid three captains, for the pay of themselves, and the three independent companies under their command, from the several days in October, November,

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and December, 1688, on which they were first mustered, to the time of their disbanding (which was on or about the 7th of January, 1688) the sums following; viz.

	£.	s.	d.
To captain Matth. Smith	237	13	2
To captain Anth. Power	221	15	8
To captain Henry Davis	253	7	4
In all	712	16	2

"That the said sum of 712*l.* 16*s.* 2*d.* is charged, as paid to the said three captains, according to their respective proportions aforesaid, in his account for 16 months, which ended the last of April, 1689: That the said sum, so charged, was vouched by the original warrant of his late majesty upon the back of which the said three captains names were endorsed: That the said 16 months account has been passed, and declared, many years since, and none of the said three captains ever complained, or pretended to say that their names, endorsed upon the said warrant, were not their own hand-writing, till those, who had been employed by the Paymaster in the management of the business of his office, in the years 1688, 1689, and 1690, were all dead, but who, when living, were known to be men of undoubted integrity; and therefore it cannot be presumed, either in justice, or reason, that such men, through whose hands this warrant passed to the auditor, could be guilty of counterfeiting names upon the back of it. Besides, it is to be observed, that capt. Anth. Power, one of the said three captains, never made any complaint, that his name was counterfeited, or that there was any one farthing unpaid of the 221*l.* 15*s.* 8*d.* charged to his account; and that, when capt. Matthew Smith, another of the said three captains, did pretend, in the year 1695, that his name was counterfeited and that he had not received the full of the said 237*l.* 13*s.* 2*d.* charged to his account he then claimed but 50*l.* 5*s.* 11*d.* as unpaid of that sum: which 50*l.* 5*s.* 11*d.* the said Paymaster's deputy, Mr. Mordecai Abbot (being tired with his clamorous importunity) paid him out of the said Paymaster's private money; telling him, when he did so, that he thought it was better for his service, to give that sum, than to have his name brought into the House of Commons, with a complaint from so scandalous a man, as captain Smith; who, upon receiving that sum from the said Mr. Abbot, gave this following acquittance, ready to be produced:

"Received from the right honorable Richard earl of Ranelagh the sum of 50*l.* 5*s.* 11*d.* being the balance of a warrant, for my independent company's pay, dated the 28th of Feb. 1688; his lordship having formerly paid it in his own wrong, without my acquittance, or my Aengt's, but upon an acquittance, to which my name was set, but was not my hand-writing; whereby both his lordship, and I, have been abused. Witness my hand this 25th of March 1698. M. SMYTHE."

"This is the truth, as to captain Smith; who certainly confirms the ill character he has in the world, by his complaining of, and swearing against, the Pay-office, after he had been so well used there. As to captain Henry Davis, the third of the said three captains, and one of the two late swearers, his case is as follows: he, being made a captain of an independent company in October, 1688, did, by a letter of attorney, in the usual form, dated the 17th of that month, constitute one Mr. Roderick Mackenzie his agent; which letter of attorney is entered at large in a book of the Pay-office; and when the said captain did, about two years since, pretend, that his name, on the back of the said warrant, was counterfeited, and that some part of the said 253*l.* 7*s.* 4*d.* directed for him by the said warrant, was still unpaid, and due to him, he was shewn the entry of his said letter of attorney, and the original receipt, signed by his said agent, Mr. Roderick Mackenzie, for the said full sum of 253*l.* 7*s.* 4*d.* and at that time there was a gentleman present, who had been his lieutenant, who very well knew the said Mr. Mackenzie, was acquainted with his hand, and declared, before the said captain Davis, and several others in the office, that he verily believed the body of the acquittance, and name were Mr. Mackenzie's own writing; to all which the said captain then made no objection. This being the matter of fact, which your Commissioners might have known, had they been pleased to have heard the Paymaster upon this observation, before they made it, he must now humbly desire this house to consider, of what fatal consequence it may be to the public, if men be allowed to swear themselves into a claim of money, by denying their hands to vouchers, delivered by an accomptant to his auditor 12 or 13 years ago, and for which he has a legal discharge; and how improbable, or rather incredible it is that an office, which, during the said Paymaster's management, has received and paid more than one-and-twenty millions, without any reflections upon it, should be guilty of the forgery pretended, for so inconsiderable a sum as 50*l.* 5*s.* 11*d.* To which he has this only further to add, that it is neither just nor reasonable to asperse any principal officer for miscarriages, supposed to be committed (nor indeed, though actually committed) by any of his inferior officers; since it cannot be presumed that any principal officer can be always inspecting their proceedings, nor can any Paymaster pretend to judge of the variety of hands, which go through his office."

Seventhly, That some of his lordship's vouchers for payments, are only loose papers put into warrants, with a name and nothing more, writ on them.

"To this observation the Paymaster answers, That such as are acquainted with business of this nature, know it to be no unusual thing: and the only signing the back of a warrant, or writing a name on a loose paper, to put into a warrant, by a person who is impowered to receive the money, has always been esteemed a good voucher, and allowed as such."

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Eighthly, That the payments differ very much, in many particulars, from the establishment: That there are rasures in some warrants, and very extraordinary payments directed in others; of which your Commissioners will give you the instances, when you please to require them.

"To this observation the Paymaster answers, That no doubt in some cases he has made payments which differ very much from the establishment; which ought not to be reckoned as a fault in him, when it is visible that the said difference is occasioned by warrants: for, though he is obliged strictly to pursue the establishment, where no warrant interposes; yet, where warrants direct him otherwise, he is obliged to obey the warrant; since, [as] one establishment supersedes another in the whole, so a warrant, signed by the same authority, supersedes any establishment in part, and hath ever been accounted, for what it contains, as authentic as the establishment itself: and where there are warrants, which direct very extraordinary payments, the Paymaster is not to be blamed: since he has nothing to do, either with preparing or procuring those warrants. And as to the rasures, which, this observation says, are in some warrants, the Paymaster knows nothing of it; and he dares aver, that, if any such be, they were made before they came to his office; and do not, in any material matter, alter the intention of the warrant; for then he should have taken notice of them so far, as not to make any payment upon them."

Ninthly, That his lordship charges himself, for interest received, 916*l.* due intermediately upon tallies, transferred over to sir Joseph Herne: Your Commissioners find a warrant, signed by the late king, for allowing the earl of Ranelagh this sum, as paid to George Clark, esq. for secret service, together with another sum, paid to Rudolph Kein, of 2,000*l.* without account; and also a privy seal, dated the 18th of June last, for the auditor to allow his lordship the same, upon his account: and, upon further enquiries, it appears to your Commissioners, that the said sum of 916*l.* (the only interest his lordship brings to account) was never paid, as is pretended, to George Clark, esq. but his name was only used in trust for his lordship, who had the same to his own proper use.

"To this observation the Paymaster answers, That he freely owns whatsoever is said in it, relating to the 916*l.* particularly, that the said sum was granted by his late majesty to George Clark, esq. in trust for him: he further saith, that the warrant, granting this sum, was dated the 4th day of March, 1692, and countersigned by the then lords of the treasury: That his petition, desiring it, was publicly read in the Treasury Chamber; and the consideration, upon which he desired it, was the great loss he had suffered by the late war in Ireland; having had his two castles of Athlone and Roscommon utterly destroyed, his mansion house in Dublin pulled down, and upwards of 12,000*l.* of his rents in that kingdom entirely lost. And as to the 2,000*l.* mentioned in this observation, as paid to Mr. Rudolph Kein without account; he saith, it was for his late majesty's own private use; that he, the said Paymaster, never saw one shilling of it; and that the warrant, which allowed him the payment of this sum in his account, was dated the 8th of February, 1692, and countersigned by the then lords of the treasury, who well knew, that his said late majesty had then a pressing occasion for that sum."

Tenthly, That whereas his lordship discharges himself by payments to colonel Cunningham, and to lieutenant-colonel St. John, each 2,000*l.* your Commissioners are not very well satisfied with his lordship's vouchers for the same, and are making further enquiry into that matter; but, in the mean time, they think themselves obliged to acquaint you, that colonel Cunningham has made oath, that he repaid to the said earl of Ranelagh 1,500*l.* or thereabouts, in part of the 2,000*l.* which had been imprested to him; and this, your Commissioners conceive, his lordship ought to have surcharged himself with.

"To this observation the Paymaster answers, That, pursuant to two warrants, signed by his [late] majesty, and countersigned by the then lords of the treasury, the one dated the 14th of March, 1688, and the other, the 10th of April, 1689, he paid to colonel John Cunningham, and lieut. col. Thomas St. John, 2,000*l.* each, without account, he being directed by the said warrant so to do; that their receipts for those sums are indorsed on the back of the said warrants, and are passed and allowed to him, in his 16 months account, ending the last of April, 1689, which has been passed and declared many years since; and therefore he cannot well understand, what the Commissioners mean, by saying, they are not very well satisfied with his vouchers, and that they are making further enquiry into that matter: and as to their saying, that colonel Cunningham has made oath, that he repaid the said Paymaster 1,500*l.* or thereabouts, in part of the said 2,000*l.* the Paymaster answers, That, though, in the paying out more than one-and-twenty millions of money, he has paid many and great sums to several persons, without account, yet he never knew any one of those, who received it so, return any one farthing of it again: and he further says, That colonel Cunningham's oath (who has been for many years in great distress and want, and is still a prisoner for debt) is not to be regarded; for certainly, if he had repaid the sum pretended, he would have produced the said Paymaster's acquittance for that sum; it being altogether incredible, that such a sum as 1,500*l.* or thereabouts, should be paid by any one man living to another, without a receipt for it.

"And now the Paymaster, having thus humbly offered to this honourable house, his answers to the ten Observations of the Commissioners of Accounts, must beg leave to observe to you, That all the said ten Observations relate

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to four of his seven accounts, which are passed and declared, and upon each of which he has a *Quietus est*; and therefore, with great submission, he is humbly of opinion, that the said Commissioners had no authority to unravel them, for the reasons which he shall humbly offer to your consideration and judgment at the end of this paper: In the mean time he will apply himself to answer that part of the Commissioners' Narrative, which, though not numbered, follows the said ten observations."

The first paragraph is, That to their said observations they have only this further to add, That the earl of Ranelagh makes a balance, due to himself, of 185,268*l.* 14*s.* 0*d.*

"To this short paragraph, which seems to imply, as if the Paymaster was rich enough to credit the government with so great a sum, the Paymaster answers, That at the foot of his last declared account, which ended the 31st of March, 1692, there is written, 'And then the 'said accomptant will be in surplusage 185,268*l.* '14*s.*' which, in the language of an auditor, is saying, that the payments, in that account declared, do exceed the sum received within the time of that account, so much; and it is the auditor who always makes the balance, and not the accomptant: and when the payments in any declared account do exceed the receipts, it is well known that those payments have been made with public money, received after the period of time which ends the said declared account; and no accomptant is one penny the richer for being in surplusage, nor one farthing the poorer, for having a balance due from him, except it be his last and final account; for, in the first case, he makes his surplusage part of his discharge in his next succeeding account; and, in the other case, he makes the balance due from him part of his charge: and, for proof of this, the Paymaster needs only to observe, that, though that great sum of 185,268*l.* 14*s.* was his surplusage on the last of March, 1692; yet, in his next succeeding account, which is now under the examination of Mr. Auditor Bridges, he is debtor, as far as yet appears, somewhat above 20,000*l.* And to this he must add, (though with grief he says it) that he was never yet in a condition to lend money, his folly having always led him to spend his income."

The next paragraph saith, That the army was cleared to the last of March, 1692; and therefore they made this the first period of time for examining the Paymaster's accounts: That they have not been able to proceed much further upon those which follow, and which seem to be laid before them very confused and imperfect; and, upon the little inspection they have made into them, they observe, the Paymaster's discharges are generally by payments of gross sums, upon account; others, by payments to several persons for services, and on several occasions, without specifying the services or occasions: Particularly, he discharges himself, in some instances, thus:

	£.	s.	d.
Paid to several persons, for especial services, and for sundry Disbursements for especial Services, relating to the Forces - - - - -	27,150	16	8
Paid several persons, for Contingencies of divers natures	50,929	17	3½
To M. Schuylenburg, for several sums advanced by him, for several services relating to the Forces - - -	76,477	8	0½

"To this paragraph the Paymaster answers, That the words, 'very confused and imperfect,' are not commonly applied to accounts, till the said accounts have been thoroughly examined; which, the Commissioners are pleased to say, they have not yet been able to do: That the army has not been cleared between the 1st of April, 1692 (to which day they are cleared) and the 25th of March, 1699, is certain; and therefore, whatsoever hath been paid them within that period of time (being seven years) was paid them upon account, and must consequently be charged, as so paid, in the Paymaster's accounts. And as to the three instances given, that the Paymaster charges payments to several persons, and on several occasions, without specifying the services, or occasions; the said Paymaster answers, That the first sum instanced, being 27,150*l.* 16*s.* 8*d.* is an article in his account, which begins from the 1st of October, 1695, and ends the 25th of March, 1699, now under the examination of Mr. Auditor Done, of which he delivered an abstract to the Commissioners on the 25th of June last; and though, in that abstract, this sum is mentioned only in general, to avoid perplexity, yet in the account, delivered to the said Auditor in Dec. 1701, the particulars, making up that sum, are enumerated, being about seventy in number.

"That the two sums instanced, being, 50,929*l.* 17*s.* 3½*d.* and 76,477*l.* 8*s.* 0½*d.* are contained in his account, which begins the 1st of April, 1692, and the last of September, 1695, now under the examination of Mr. Auditor Bridges, of which he also delivered an abstract to the Commissioners on the said 25th of June last; and though, in that abstract, the said two sums are only mentioned in general, to avoid perplexity, yet in the account itself, delivered to the said auditor in November, 1701, the particulars, making up those two sums, are enumerated, being 210 in number, or thereabouts.

"And the Paymaster further saith, that the Commissioners have not only an abstract, before them, of his accounts, delivered by him, as aforesaid, to Mr. Auditor Bridges, but they have also had, for some months past, the original account itself, they having sent to the said Auditor for it; by which they may be easily satisfied of what is here averred."

The third paragraph, which speaks particularly, is, That the Paymaster has forgot to carry a balance, due from him, of 20,792*l.* 7*s.* 1*d.* and that in another account he makes the

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balance due to himself, 58,886*l.* 12*s.* but has carried to the following account 98,429*l.* 13*s.* 11½*d.* which, according to his own calculation, is more, than it ought to be, 39,543*l.* 1*s.* 11½*d.*

"To this paragraph the said Paymaster answers, first in general, That no accomptant can ascertain the balance of any account, whilst it is under examination, since it is the Auditor, as before hath been observed, who alone settles the balance, due either to, or from, the accomptant; and it is a justice, which hath been always shewn to an accomptant, to leave his account open, for some time after the delivery of it to an Auditor (especially when the account is for great sums, and for a long period of time) that so the accomptant may have time, and liberty, to add any articles, omitted in the first delivery, either to his charge, or discharge.

"He further saith, That he never yet knew an auditor forget to carry the balance, due at the foot of one account, to the charge of the next succeeding account; nor did any Auditor, as he hath heard, ever allow a balance due to an accomptant, beyond what his discharge, well vouched, made it. And the Paymaster, having said this in general, hastens to answer the particular instances in this paragraph.

"In order to which, he must first humbly acquaint this honourable house, that he hath delivered to the said Commissioners five accounts of his receipts, and payments, from the 1st of April, 1692 (to which day his seven declared accounts go on) to the 25th of December 1701, none of which are yet passed, and declared; the two first of them depending before the two auditors, as before hath been said, and the three last not being yet delivered them, by reason they cannot properly take them into their examination, till the said two first are ready for declaration; and the said three last accounts were framed pursuant to the Commissioners precepts, and for their present satisfaction, in order to shew them the state of his receipts, and payments, from the 25th of March, 1699, to Christmas, 1701; which, as far as the said Paymaster can compute, will very near balance each the other: And he further saith, that the balance, due from him, of 20,792*l.* 7*s.* 1*d.* (which, this paragraph saith, he hath forgot to carry to his next succeeding account) relates to the first of the said five accounts; that the balance, due to him, of 58,886*l.* 12*s.* relates to the second of the said five accounts; and the increase of that balance, from 58,886*l.* 12*s.* to 98,429*l.* 13*s.* 11½*d.* (which, this paragraph saith, is an addition to it of 39,543*l.* 1*s.* 11½*d.* according to his own calculation) relates to the third of the said five accounts: To all which he answers, that, when he delivered his second account to Mr. Auditor Done, in Dec., 1701, he then delivered to him an abstract of it, at the bottom of which there was a memorandum, acquainting him, that he had other articles to add to the discharge of that account, which were not then ascertained, but which he hath since added, and make his discharge, upon the second account, not only sufficient to answer the charge of it, but also to clear the said 20,792*l.* 7*s.* 1*d.* (said to be forgot, as aforesaid) and still to leave a balance, due to him, of 98,429*l.* 13*s.* 11½*d.* which therefore is carried to the discharge of his third account. And this whole matter was fully explained to the Commissioners, before they delivered in their narrative to this honourable house, by a letter, which the said Paymaster writ to them, and of which he hath a copy ready to produce."

In the 4th and last paragraph, the Commissioners are pleased to say, That, as they see, from these, and other the like, instances, that the Paymaster's subsequent accounts are as extraordinary, and no less imperfect, than the former; so they have great reason to apprehend, that, when they shall call upon him, to lay others before them, in such a method, as they conceive most necessary, for their due examining and stating of them, it cannot be complied with; because, when they sent two of their own members with a precept to him, to see, whether he had kept such a register of his regimental accounts, as he was required to do by a clause in an act, passed in the 4th and 5th of the late king and queen (for punishing officers, and soldiers, who shall mutiny, or desert) and continued, by several other acts, till the 10th of April, 1698, they reported, that there was no such register kept; that neither he, nor those he employed, owned, they knew of the clause; but that he desired to know, where it was to be found, and said, he would read it, before he slept: They reported also, that he seemed ignorant of the like clause, passed in another act of the last session, against mutiny and desertion; and that he had kept no such register in his office.

"To this paragraph he answers, That a precept was brought him, to his office, dated the 13th of October last, by two of the Commissioners of Accounts; by which he was required to permit the said two Commissioners to inspect such offices, books, and papers, as they should think fit. Upon sight of this precept, the Paymaster assured them of his readiness to comply with it. Upon this they asked him, whether he had kept a register of his regimental accounts, as he was required to do by a clause in an act, passed in the 4th and 5th of the late king and queen (for punishing mutiny and desertion) and continued, by several other acts, to the 10th of April, 1698. To this he answered, That, pursuant to the clause aforesaid, he had, with great labour and pains, made up all the said regimental accounts, belonging to his office, from the 1st of April, 1692, to the 25th of March, 1699; that he had given out the said regimental accounts, so made up, to the several colonels, or their agents; and that, before he did so, he had caused them all to be fairly entered, or registered, in large books, prepared for that purpose. Whereupon they desired to see those books, which were immediately laid

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before them; and after they had inspected them some time, and taken notice, how fairly they were entered, they told him, that he was obliged, by the clause aforesaid, to attest, under his own hand, or that of his deputies, that each regimental account, so entered, was a true account. To this the Paymaster answered, that he, or his deputy, had signed all the original accounts, delivered, as aforesaid, to the several colonels, or their agents; and that, having done so, he thought, there was very little need of signing the copies of them, enteredin those books: And when they replied to this, that the aforesaid clause required such signing, he told them, that he had not read that clause of a long time, but that he would read it, before he slept; and that he thought, he had fully complied with the intention of it, by signing the original accounts, given out to the colonels, or agents; and, if it were thought necessary, he would have the several entries of them signed by such of his clerks, as had both entered, and examined them; adding, that, though he entered all his letters of business in books, yet he never thought it necessary to attest, or sign, those entries. After this they asked him, whether he had made up such regimental accounts, pursuant to the like clauses, passed in another act, of the last sessions, against mutiny and desertion: To which he answered, That he had not as yet much minded that clause, thinking, there was no great need of it, since the forces, under his care, were now paid regularly, as soon as the rolls for any muster were brought into his office; and that, though the letter of this last clause had not been, as yet, exactly complied with, yet he had the vouchers and warrants, belonging to each regiment, from Christmas last, ready to shew them, though that last clause was to take effect only from the 1st of March last.

"This is a true Narrative of what passed betweed the said two Commissioners, and him, on the day aforesaid; and therefore the Paymaster cannot but wonder, that this paragraph should so positively suggest that he had kept no register of the regimental accounts, required by the aforesaid first clause, and that even he had forgot, there was such a clause: though he can safely say, that it cost him very near two years constant trouble, in making up, and entering, the said accounts; which were made up with that exactness, that the five commissioners of accounts have grounded all their certificates for Debentures upon them; and as to the last clause, now in being, he hath since punctually complied even with the very letter of it, from Christmas last.

"These are the Answers, which the said Paymaster humbly offers to all the material observations, contained in the narrative of the Commissioners of Accounts; to which he begs leave now to add the reasons, why he hath, and still doth insist, that the said Commissioners have no authority to ravel into, or lay open, any of his accounts, passed and declared, upon which he hath his *quietus est* in due form of law, and which have been heretofore under the examination of any of the former Commissioners of Accounts.

"The first act, appointing Commissioners of Accounts, passed in the 2d year of the late king and queen: The Commissioners, thereby appointed, had a general power and authority to examine all accounts of public money, between the 5th day of November, 1688, and the 25th of January, 1691: Which act was revived to the 25th of April, 1693, by the last clause in the act, granting a quarterly poll to their majesty's, in the 3d year of their reign.

"The next act, appointing Commissioners of Accounts, passed in the 4th and 5th years of their said late majesty's reign. The parliament, thinking, that it was no ways reasonable, to give such persons, as had delivered in their accounts to the Commissioners, appointed by the said first-recited act, the trouble of accounting over again, for the same matters, before the Commissioners appointed by this act, did not give them a general power, as in the first act, but confined and limited their power, to take accounts of all monies, issued between the said 5th of November, 1688, and the 24th of April, 1694, not accounted for by virtue, or in pursuance, of the said first-recited act, or the last clause, touching public accounts, enacted in the aforesaid act, granting a quarterly poll.

"And the powers of the Commissioners of Accounts, appointed by an act, made in the 5th and 6th years of their said late majesty's reign, and of those appointed by another Act, made in the 6th and 7th years of his said late majesty's reign, and of those appointed by another act, made in the 7th and 8th years of his said late majesty's reign, are all, for the same reason, limited and confined to the taking the accounts of the public money, not accounted for by virtue, or in pursuance, of any of the former acts; and therefore the respective Commissioners, in the said acts named, did never require an account of any money from any Paymaster, an account of which had been laid before any former Commissioners.

"And since the power of the present Commissioners is given them in the very same words, in the late act, as was given to the respective Commissioners in the said former acts; viz. To take accounts of all public monies, due or payable on the 5th day of November, 1688, or at any time between the said 5th day of November, 1688, and the 25th day of March, 1703, not accounted for by virtue, or in pursuance, of the said former acts, or any of them; and that the public money, paid to the Paymaster of the forces, between the said 5th of November, 1688, and the said last day of March, 1692, hath been accounted for by the said Paymaster to former Commissioners of Accounts, by virtue, and in pursuance, of the said former acts; the said Paymaster did, and still doth, humbly conceive, that the present Commissioners had not a power to require an account of the same from him, much less to ravel into, and lay open, his said four accounts, passed and declared, from

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the 1st of January, 1687, to the said last of March, 1692, upon which their ten observations, and the additional clause to them, are entirely grounded.

"And the said Paymaster must further add, That in the first act, appointing Commissioners of Accounts, which passed, as before hath been said, in the 2d year of their late majesty's reign, there is a clause, which saith, 'Provided always, and it is the true intent and meaning of 'this present act, that all accomptants to their 'majesties, of all such sum or sums of money, 'so by them received, and issued, or to be received and issued, as aforesaid, shall render 'and make their respective accounts, in their 'majesties Court of Exchequer, according to 'the usual course of the said Court; any thing 'contained in this act to the contrary notwithstanding:' Which clause is revived in all the five succeeding acts, and in the present act:—And that, though this clause was certainly intended for the ease and quiet of accomptants, yet it will prove altogether useless to them, if their accounts, when passed, and declared, according to the direction of this clause, shall be laid open, and unravelled.

"All which the said Paymaster humbly submits to the judgment of this honourable house.

Nov. 30, 1702. RANELAGH."

On the 5th of December, the house resolved, "That it appears to this house, that the Paymaster general of the army has given great and unnecessary delays, in his proceedings before the Commissioners, for taking, examining, and stating, the Public Accounts of the kingdom. 2. That this house will, to-morrow morning, proceed to receive the proofs of the Commissioners of Accounts to the several articles of their Narrative, or representation, and of the earl of Ranelagh's Answer also to the same."

Resolutions against the Earl.] On the 7th of December, the house proceeded to receive the Proofs of the Commissioners of Accounts to the remaining Articles in their Narrative or Representation, and of the Answer of the earl of Ranelagh also to the same.

And the remaining Articles of the said Commissioners were severally read, and the earl of Ranelagh's Answer to them; and the Commissioners, and the earl of Ranelagh, were heard thereunto.

Resolved, *nem. con.* 1. "That it appears to this house, that the Seven Commissioners, appointed by Act of Parliament, for taking, examining, and stating, the public Accounts of the kingdom, have had very good grounds for making their Observations in their Narrative, or Representation, laid before this house. 2. That all monies, issued to the Paymaster-general of the army, ought to be applied to the use of the army and forces only, and to no other use or purpose whatsoever. 3. That all privy seals, Orders of the Treasury, or other Warrants, to the Paymaster-general of the army, to apply the money, in his hands, to other, than the use of the army and forces, are illegal and void. 4. That all privy seals, or warrants, to the auditors of the Imprest, to pass accounts, without proper vouchers, or to make any allowances, other than according to the law and course of the Exchequer, are illegal, and void. 5. That the Seven Commissioners, for taking, examining, and stating, the Public Accounts of the Kingdom, have made good the allegations in their Narrative, or representation, laid before this house."

Resolved, "That it appears to this house, that the Earl of Ranelagh, Paymaster-general of the Army,* hath misapplied several sums of the public money."

* "The earl had been Paymaster of the Army in king James's time; and being very fit for the post, he had been continued all the last reign: he had lived high, and so it was believed, his appointments could not support so great an expence: He had an account of one and twenty millions lay upon him. It was given out, that a great deal of the money, lodged in his office, for the pay of the army, was diverted to other uses, distributed among favourites, or given to corrupt members of parliament; and that some millions had been sent over to Holland: it had been often said that great discoveries would be made, whensoever his accounts were looked into: and that he, to save himself, would lay open the ill practices of the former reign. But now, when all was brought under a strict examination, a few inconsiderable articles of some hundreds of pounds, was all that could be found to be objected to him; and, even to these he gave clear and full answers. At last they found, that, upon the breaking of a regiment, a sum, which he had issued out for its pay, had been returned to his office, the regiment being broke sooner than that pay was exhausted; And that no entry of this was made in his accounts. To this he answered, that his officer, who received the money, was, within three days after, taken so ill of a confirmed stone, that he never came again to the office, but died in great misery; And, during those three days, he had not entered that sum in the books. Lord Ranelagh acknowledged, that he was liable to account for all the money that was received by his under-officers; but here was no crime or fraud designed; yet this was so aggravated, that he saw his good post was his greatest guilt: He therefore quitted his place, which being divided, Mr. Howe was appointed pay-master of the guards and garrisons at home, as being the more lasting post; and sir Stephen Fox, paymaster of the forces beyond sea. Upon this, all the clamour raised against the earl of Ranelagh ceased; however, the Commons vindicated the report of the commissioners by a vote, and, to make a shew of severity, expelled the earl the house, on the 7th of February, 'for a high 'crime and misdemeanor, in misapplying several 'sums of the public money.' But, upon all this canvassing, he appeared much more innocent than even his friends had believed him." Tindal.

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The Earl of Ranelagh expelled.] On the 1st of February, the House resolved, That Richard earl of Ranelagh, late paymaster of the forces, is guilty of a high crime and misdemeanor, in misapplying several sums of the public money. 2. That Richard earl of Ranelagh, for his said offences, be expelled this house.

Proceedings of the Commons against Lord Halifax.] On the 18th of January, Mr. St. John, from the Commissioners of the Public Accounts, presented to the House of Commons a general state of Receipt and Issues of the public revenue, between the feast of St. Michael, 1700, 1701, and 1702, with observations thereupon. This having been taken into consideration the following days, and, Mr. Bridges, one of the commissioners, having, on the 25th, presented to the house an account of both the loans and payments on the votes of that house, in February 1700, and of the produce of 25 per cent. on French goods, and the application of the same, it was then resolved,

"That the borrowing of money, and striking tallies with interest unnecessary, before the public occasions required the same, had been one reason of the great debt, which lay upon the nation: and that the applying of the public money to the use of the civil list, which was otherwise provided for, was another cause of that great debt."

The next day, colonel Bierley, from the Commissioners, presented to the house their Report, pursuant to an order of the house, by which they were directed to examine the auditor and other officers of the exchequer, relating to the passing of the accounts of the public money, and to lay before the House what they should find to be the cause, that the accounts were not annually and duly passed, according to the laws in that case, and through whose default it had happened. This report, and several paragraphs of the Commissioners observations, being read, the house resolved,

"1. That Charles lord Halifax, auditor of the receipt of the exchequer, had neglected his duty, and was guilty of a breach of trust, in not transmitting the imprest rolls half-yearly to the king's remembrancer, according to the act made in the session of parliament, held in the 8th and 9th years of his late majesty's reign, intitled, "An act for the better observation of the course anciently used in the receipt of exchequer." 2. That the allowing accountants the charges of law-suits, to determine the right of their officers, was a misapplication of the public money. 3. That the auditors of the imprest had been guilty of a great neglect of their duty, in not certifying to the king's remembrancer the neglect of the several annual accounts, that the process might go out against them. And, 4. that there had been a general mismanagement of the public money, by not obliging accountants to make up their accounts, and by continuing receivers in several counties, contrary to law, who had neglected to make up their accounts in due time, which had been a great abuse of the public, and another cause of the great debt that lay upon the nation."

"On the 27th, the Commons, having proceeded in the further consideration of the observation of the Commissioners of Public Accounts, resolved, 1. "That the money, imprest out of the exchequer for the service of the public, ought to be kept by the respective officers in their own custody, until the same shall be paid to the uses, for which it was directed. 2. That Charles lord Hallifax, auditor of the receipt of exchequer, had been guilty of a breach of trust, in not examining, every three months, the tellers vouchers for the payments upon the annuities, which he allowed in his weekly certificates, according to the forementioned act of parliament. 3. That the resolutions relating to the lord Hallifax be laid before her majesty. And, 4. That an Address be presented to her majesty, that she would be pleased to give directions to the attorney-general to prosecute him for the said offences." On the 7th of February, colonel Granville acquainted the house that the queen had been pleased to say, "That she would send to the attorney-general, and give him her directions pursuant to this Address."

Lord Halifax cleared by the Lords.] On the other hand, the Lords, before whom Mr. Gregory King, secretary to the Commissioners of Accounts, had, on the 15th of January, laid an Account of the general state of the receipts and issues of the public revenue, from the feast of St. Michael 1700, to the same feast in 1702, with their observations thereupon, ordered, on the 1st of February, that the Commissioners of Accounts should lay before their lordships what further observations they had made in relation to the said accounts. The next day the lords took the book of public accounts into consideration, and read the first paragraph of the commissioners observations; which relating to the lord Hallifax his lordship was heard thereto. Then Mr. King delivered at the bar the Commissioners of Accounts farther observations; and at the same time the queen's remembrancer laid before their lordships the imprest-rolls transmitted to him since November 1699. This being done, a committee was appointed to consider of the observations delivered first to their lordships from the Commissioners of Accounts; and it was ordered, "That the queen's remembrancer should, the next day, bring before the said committee the imprest-rolls transmitted to him since the 20th of April 1697, being the time from which the act commenced: And secondly, That the Commissioners for Public Accounts should have notice, that their lordships had appointed a committee to consider of their observations. On the 3d of February, Mr. Barker, deputy to her majesty's remembrancer, brought the other imprest-rolls, as ordered the day before; which were delivered to the committee, and the duke of Somerset reported from the said committee, that they had taken the first observation into consideration, in relation to the auditor of the exchequer: That, though

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the Commissioners of Accounts had notice of the committee's sitting, yet none of them attended; and therefore the committee was of opinion, that a message be sent to the House of Commons, that they might have leave to attend; which message was, on the 4th of February, sent accordingly.

On the 5th, the Commons, having taken the said message into consideration, appointed a committee to inspect the journals, and to search precedents relating to what had been done upon the Lords desiring members of the House of Commons to attend the house of Lords, and in relation to the Lords inspecting and examining accounts. And the same day the duke of Somerset made the following report:

"The committee appointed to consider of the observations in the book of accounts delivered into this House, have made some progress in considering the said observations, and take leave to acquaint this House, that they have examined into the first of these observations; and also the further observations delivered into this House, the 2nd instant, relating to the transmitting the ordinary imprest rolls to the queen's remembrancer. They have inspected several of the original imprest-rolls delivered into the house by Mr. Barker, deputy to her majesty's remembrancer. They also examined divers officers of the Exchequer, and others, upon oath, and do find, that, by the ancient and uninterrupted course of the Exchequer, two imprest-rolls are to be made out for each year; the one comprehending all such sums imprest from the end of Trinity-term to the end of Hilary-term; the other containing all such sums from that time to the end of Trinity-term; which rolls are commonly called half yearly rolls, though improperly. They find, that, by the ancient course of the Exchequer, these imprest-rolls, being made out by the auditor of the receipt, are to be delivered by him to the clerk of the pells, whose duty it is to examine and sign them; and this being done, the clerk of the pells delivers them to the remembrancer. This usage was by degrees discontinued in the reign of king Charles the second; and the remembrancer, or his agent, used to come to the office of the auditor of the receipt, and take away the imprest-rolls from thence immediately. But, in the time when the earl of Rochester was treasurer, the ancient usage was restored, and he did order, that the imprest-rolls should be carefully examined and signed by the clerk of the pells, before they should be transmitted to the remembrancer; and accordingly, since that time, the ancient custom has been observed, as well before as since the act of parliament made in the 8th and 9th years of his late majesty, 'For the better observation of the course anciently used in the 'receipt of the Exchequer;' that is to say, the said half-yearly rolls, when made out, and signed by the auditor, have been by him transmitted to the clerk of the pells; and when the clerk of the pells has examined and signed them, he, or his deputy, has delivered them to the remembrancer; and this appears by the remembrancer's indorsement upon the rolls. The committee finds, that Charles lord Halifax has been auditor of the receipt from the end of November 1699, since which time six imprest rolls have been transmitted to the remembrancer; and there is a seventh roll now under examination of the office of the pells, and no other roll can be prepared till after the 12th of this instant February. Upon the whole matter, the committee are humbly of opinion, that Charles lord Halifax, auditor of the receipt of the Exchequer, hath performed the duty of his office, in transmitting the ordinary imprest rolls to the queen's remembrancer, according to the ancient custom of the Exchequer, and the directions of the act of the 8th and 9th Gulielm. 3. and that he hath not been guilty of any neglect or breach of trust upon that account."

This report being read, as also the examination taken upon oath by the committee, and the dates and indorsments of the several imprest-rolls, delivered by Mr. Barker, the question was put 'Whether this house would agree to the 'opinion of the committee in this report?' Which being carried in the affirmative, it was resolved and declared by the lords spiritual and temporal in parliament assembled, That Charles lord Halifax, auditor of the receipt of the Exchequer, hath performed the duty of his office in transmitting the ordinary imprest-rolls to the queen's remembrancer, according to the ancient custom of the Exchequer, and the direction of the act 8 and 9 Gulielmi 3, regis, entitled, "An act for the better observation of the course anciently used in the receipt of the exchequer;" and that he hath not been guilty of any neglect or breach of trust upon that account. At the same time the Lords ordered their proceedings in this affair to be immediately printed and published.

Difference between the two Houses respecting the Public Accounts.] This vindication of the lord Halifax gave great offence to the House of Commons, who, on the 12th of February, ordered their committee to search the journals of the House of Lords, and report their lordships proceedings in relation to the observations of the commissioners of accounts. Pursuant to this order, col. Granville the next day reported to the house, what the committee had found both in the Lords journals relating to this affair, and in the journals of the House of Commons relating to what had been done upon the Lords desiring members of the said house to attend the House of Lords; and in relation to the Lords inspecting and examining public accounts.

This Report being read, the Commons ordered the same Committee to draw up what was proper to be offered to the Lords, at a Conference upon the subject matter of their lordships message of the 4th instant, which the Committee did accordingly in this manner:

"The Commons cannot comply with your lordships desires contained in your message of the 4th instant, because the Commons are still

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of the same opinion, as was delivered to your lordships in February 1691, at a free conference upon the subject matter of the amendments made by the Lords to the additional bill, for the appointing and enabling commissioners to examine, take, and state the public accounts, of the kingdom, when they desired to know the end your lordships would propose to yourselves by an enquiry into the public accounts. For, should any misapplication of money, or default of distribution, appear in the accounts, your lordships cannot take cognizance thereof originally, or otherwise, even in your judicial capacity, than at the complaint of the Commons. And, should a failure or want of money appear, it is not in your lordships' power to redress it, for the grant of all aids is in the Commons only; or, if there be any surplusage, the Commons only can apply it to the charge of the ensuing year. But, should the Commons give leave to the Commissioners to attend your lordships, no information they can give against any person whatsoever, can entitle your lordships either to acquit or condemn. Yet, since this message, the Commons find in your lordships journals a resolution, declaring, 'That 'Charles lord Hallifax, auditor of the receipt of 'the Exchequer, has performed the duty of his 'office, &c.' Which looks to the Commons, as if your lordships pretended to give a judgment of acquittal, without any accusation brought before your lordships, and consequently without any trial. And that, which makes your lordships proceeding yet more irregular, it tends to prejudging a cause which might regularly have come before you, either originally by impeachment, or by writ of error from the courts below. And therefore the Commons can see no use of their resolution, unless it be either to intimidate the judges, or prepossess a jury. But, if your lordships could have judged in this matter, it does not appear by your lordships journals, that you have had under your examination the respective times of transmitting the several imprest rolls to the queen's remembrancer; without which it is impossible to know, whether the auditor of the receipt has done his duty according to the late act of parliament."

These Reasons being reported, on the 16th of February, by colonel Granville, and afterwards read and approved by the house, a Message was immediately sent to the Lords, to desire a Conference; to which the Lords having the next day agreed, the managers for the Commons delivered the said Reasons to their lordships.

The Lords, upon this, on the 18th, came to the following Resolutions: first, "That the Lords have an undoubted right (which they can never suffer to be contested) to take cognizance originally of all public accounts); and to enquire into any misapplication or default in the distribution of public monies, or into any other mismanagement whatsoever; secondly, That the Lords, in their inquiry into, and examination of the observations of the commissioners of accounts, in relation to Charles lord Halifax, and in their resolution thereupon, had proceeded according to the rules of justice, and the evidence, that was before them. And, thirdly, that the Commons, in their reasons delivered at the last conference, had used several expressions and arguments highly reflecting, and altogether unparliamentary, tending to destroy all good correspondence between the two Houses, and to the subversion of the constitution."

The queen, being apprehensive of the consequences of these differences between the two Houses, sent a message to the Lords, on the 22d of February, by the earl of Nottingham, to make a quick dispatch with the business before them; and the same day their lordships communicated the above-mentioned resolution to the Commons at a Conference, which their lordships had desired and appointed. The Commons, having the next day taken the same into consideration, resolved, That a free Conference be desired with the Lords upon the subject-matter of the two last Conferences; and ordered their managers to consider of what heads were fit to be urged at the said Free Conference, which they accordingly did, and the said heads were as follow:

1. "That no cognizance, the Lords can take of the public accounts, can enable them to supply any deficiency, or apply any surplusage of the public money. 2. That the Lords can neither acquit or condemn any person whatsoever, upon any inquiry arising originally in their own house. 3. That the attempt the Lords have made, to acquit Charles lord Hallifax, auditor of the receipt of the Exchequer, is unparliamentary, and not warranted by any precedent: and the resolution thereupon plainly contrary to what appears on the records themselves. 4. That the Conference, desired by the Commons, was in order to preserve a good correspondence between both Houses, by offering reasons to prevent the Lords from proceeding in a case, which they had no precedent to warrant; and the Commons expressing the consequences they apprehend might follow from that resolution, was neither reflecting nor unparliamentary, nor tending to destroy the good correspondence between the two Houses; and much less to the subversion of the constitution: and, 5. That the Lords delivering at a Conference their resolutions, instead of reasons, in answer to the reasons of the Commons, is not agreeable to the ancient rules and methods of parliament observed in the conferences between the two houses.

These heads being reported by colonel Granville on the 25th, and then read, and approved by the House, a message was sent to the Lords, to desire a Free Conference with their lordships, who appointed the same immediately in the Painted Chamber, and named the lord Steward, the earl of Carlisle, and the lords Herbert, Hallifax, and Ferrers, to be their managers.

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The managers for the Commons, at the head of whom was Mr. Finch, opened the particulars, which they had in direction to insist on; adding, "That, when they acquainted their lordships, that the expressing the consequences, which they apprehended might follow from their lordships resolutions, it was not a charge upon their lordships, that they intended that consequence, but that they would have been very glad their lordships would have been pleased to have let them know, what use was to be made of it, or what they intended by it: and concluded, that, if their lordships did controvert any of these points, they were ready to maintain them."

The Lords made no answer to any of these particulars, except to the matter of the resolution relating to the lord Halifax, upon which they acknowledged, "That they were no court of inquiry to form any accusation: that their proceeding in relation to that lord was no trial, nor was their resolution any judgment or acquittal; but that he might still be prosecuted as before. But that, which gave occasion to that proceeding, was the resolution of the House of Commons, which they found in the printed votes, reflecting upon a member of their house; and thereupon they thought fit to give their opinion, which they did in the legislative authority."

The managers for the Commons replied, "That their lordships having in their resolutions declared, that they had proceeded according to the rules of justice, and the evidence that was before them, the Commons could put no other interpretation upon it, than that it was intended as a judgment: and no judgment could be made, where there was no accusation; and, if it was not a judgment, they could not imagine what it did tend to. As to their lordships delivering their opinion, that it was against the rules of any court, that any judge whatsoever should deliver his opinion in a cause, that might come before him; and that this matter might hereafter come judicially before their lordships. That there was a great difference between the vote of the Commons and the resolution of the Lords. That the vote of the House of Commons was but in order to a prosecution, which they can never vote without declaring the crime, and they can never come to be judges of it. That the House of Commons is the grand inquest of the nation, and every grand-jury, that finds Billa Vera upon an indictment, does by that declare the man guilty. But that the lords have a judicial capacity, and their resolution, before an accusation brought, is prejudging the cause, that may come regularly before them. As to the observation the Commons made, that the Lords had not examined the respective times of transmitting the imprest-rolls to the queen's remembrancer, the Commons' managers said, That, as their lordships resolution was no judgment, so this Conference was no trial. But, to shew the mistake of their lordships resolution, they observed, the date upon the several imprest-rolls, that had been transmitted to the remembrancer; and that they apprehend there were still two wanting: that the three last, that were transmitted, came not to the remembrancer till January last; the two first on the 23d, the last on the 27th; and that the first of these three imprest-rolls was money imprest to the 21st of February 1700, and said to be in the first year of queen Anne; which shewed, that the roll was so far from being examined or transmitted in time, that it was not made up till since her majesty came to the crown. That, as the custom formerly had been to set down the time of the examination of those rolls, since Mr. Charles Montagu came in to be auditor, he set down the month, but not the day: and, since the lord Hallifax was auditor, he had set down neither month nor day; and that, by his example, on the three last imprest-rolls, the clerk of the pells had put no time at all."

To this the lord Hallifax, in his own defence, replied, "that the Lords' Resolution was well founded, since they had the rolls themselves before them, and proof upon oath. That by the words of the act, the auditor was to transmit the imprest-rolls to the remembrancer half-yearly, according to the usual course of the exchequer; which is eight months and four months. That it was not his duty to transmit them immediately to the remembrancer, because he was to send them to the clerk of the pells, who is to examine and sign them. That it could not be imagined, that the auditor should be tied to a certain time to transmit the rolls to the remembrancer, because they must first go through another hand; and he never took it, there was any occasion to put down the time he examined them, for that would appear from the time of the delivery and date of the roll. That there was one examined by the clerk of the rolls, the 4th of July, which he did not take to be the auditor's fault, but to be the duty of the clerk of the pells to deliver them. That every body knew the great trouble, that had been given in his, as well as other offices, by the commissioners of accounts; and that no loss had happened by not transmitting these rolls, no process having been issued forth for many years upon them."

The managers for the Commons said, "that though half-yearly should be taken for eight months and four months, yet by that they must be transmitted twice a year; and so he had failed in his duty in that respect. That to construe the ancient course of the exchequer in the act of parliament, to be meant, that the clerk of the pells should transmit the rolls, was a direct contradiction to the act, that says, the auditor shall do it." That the ancient course of the exchequer having not been observed, was the occasion of making that law; and that they thought laws were to be observed. That indeed no process could issue til the rolls were transmitted, and possibly might be the ground the accounts had been so long unpassed, to the

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prejudice of the public. And that, in his lordship's apprehension, there was no loss to the public by not transmitting the rolls, might probably be the reason of his lordship's neglecting his duty."

Here the Free Conference broke up: and the members being returned to their respective Houses, the Commons ordered their managers to draw up a Report of the said Free Conference; and then a motion was made, "That the votes of the House should not be printed; and that this might be a standing order;" which was carried in the affirmative.

The Lords, on the contrary, ordered their proceedings, in relation to the Public Accounts, to be immediately printed; whereupon the Commons resolved to publish their proceedings likewise.

The Commons' Address to the Queen concerning the public Accounts, public Delinquents, &c.] On the 11th of February the House of Commons laid the following Representation before her majesty:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled (being deeply sensible, that notwithstanding the immense sums which have been raised for the service of the late war, the nation still labours under a vast debt of many millions of money) do think it our indispensible duty to lay before your majesty the unhappy causes and instruments, which appear to us, to have brought this heavy burden upon your people, not doubting but your majesty will be graciously pleased, in your great wisdom and goodness, to give such effectual orders, that neither any indirect practices shall be suffered, nor any persons entrusted with the administration of the public affairs, who have been the authors of all our miseries.

"We therefore humbly crave leave to represent to your majesty, that during the said war, which was carried on in defence of the protestant religion, and the liberties of Europe, against the common enemy of both, and therefore chearfully supported by the people of England; yet, even then, when the great necessities of the kingdom did require a more than ordinary frugality, there appears to have been a general mismanagement of the public revenue, which was principally owing to some of those great officers of the Treasury, who, being more intent on their own private profit than the due execution of their public trusts, did neither discharge the duty of their own places, nor take care that the sub-ordinate officers should discharge theirs.

"And we can attribute it to no other cause than this remissness in the Treasury, that many receivers in the several counties of England and Wales, made so long and unnecessary delays in their respective payments into the exchequer, of the taxes given by parliament, and levied on your majesty's good subjects, by which means they made unreasonable advantages to themselves, whilst the public was forced to pay great interest and large premiums, not only for the want of their own money, but, as we have great reason to believe, many times for the loan of it; and several receivers in such intermediate time have failed with considerable sums in their hands, to the great loss and damage of the public.

"Your dutiful Commons do further humbly represent to your majesty, that great sums of money have been borrowed, and divers tallies with interest struck unnecessarily upon the assessments and other parliamentary aids, before the public occasions have required them; and this practice hath been pursued, when votes of credit have been obtained, upon representations made to your Commons of very pressing necessities for the same: whereby many officers of the revenue, and their friends, have had an opportunity to receive great sums for interest, which did incur on such tallies before their money was paid in, to the use of the public; for the advantage of which interest, we have also reason to believe, that many accomptants (who have received from the Exchequer great sums of money for the use of the public) did industriously delay the payment thereof to the seamen and soldiers, to whom it was due. And this seems to be the great inducement, that made such accomptants trust great sums of the public money in the hands of goldsmiths and other persons, in order to make private advantages of it, and lend it back to the Exchequer in other persons names: all which tended to the great damage of your majesty's good subjects, to the manifest wrong and discouragement of the seamen and soldiers, and to the great dishonour of the English nation.

"This evil practice of striking tallies with interest, before the money was paid in, was also attended with another very great inconvenience to the public, that whenever the nation had occasion for ready-money to answer the present necessities of the kingdom, many persons who advanced their money upon loan, knowing they should have the same advantages by delay, as by prompt-payment, would not bring their money into the Exchequer for several months after the tallies were struck; whereby the government was forced, in the mean time, to pay excessive rates for stores and provisions for the army and navy, in regard the merchants and tradesmen could have no ready-money for their goods, but remote tallies upon a large discount.

"And by these and other undue means, a very great part of all the public aids were squandered away in extravagant interest, large premiums, and in excessive rates for stores and provisions, which has been one of the great causes that hath brought so heavy a debt upon this nation.

"But here we cannot, in justice, omit to acknowledge the present good management of the Treasury, whereby, for the honour of your

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government, and the advantage of the whole nation, no unnecessary tallies with interest are permitted to be struck, nor more money at any time borrowed, than the necessities of the nation do require; and care is taken to support the credit of the navy, victualling, and other public offices; and that stores and provisions are in good measure provided, with as great advantage to the public, as if the same were purchased with ready-money; which frugality and good management will be found to be one of the most effectual means, to make your majesty's government easy at home, and to carry on a vigorous war against the common enemy abroad.

"And we humbly crave leave farther to represent to your majesty, that though your Commons, who are always ready to support the dignity of the crown, had amply provided all those sums, which, according to the largest estimates laid before them, were thought necessary for the occasions of the civil-list, yet, over and above the said sums, and out of the aids given by parliament, (which by the law of England are appropriated, and ought to have been employed in the common profit of the whole realm) many large sums of money, during the time of such heavy taxes upon the people, have been diverted under the head of secret services, and for salaries, bounties and pensions to private persons, which, if proper to be paid at all, ought to have been supplied out of the civil-list: Nay, to so great a degree did this profuseness extend, that several thousand pounds were paid out of public aids, to purchase great places for the late earl of Sunderland, and the present earl of Albemarle; so little could your Commons depend upon the integrity of the public officers, so little regard was had by them to those heavy taxes the people lay under, that nothing less could secure the public money from misapplications, than an express clause of appropriation; which though not at all necessary for the security of the public money in general, but only to direct the application of it in some particular cases, yet whenever your Commons made no such particular appropriation, they seldom failed to misapply the public money; which has been another great cause of the heavy debt that lies upon the nation.

"And your Commons humbly crave leave farther to represent to your majesty, that the ancient and established method of accounting in your majesty's Exchequer, hath been in manner following: that is to say, the auditor of the receipt is to make out and transmit the imprest rolls half-yearly to your majesty's remembrancer, in order to the charging and prosecuting the accomptants; which being communicated to the auditors of the imprest, they are to certify to the said remembrancer what accomptants have not brought in, or prosecuted their accounts, and thereupon the remembrancer is obliged, every issuable term, to issue out process against them, so that the auditor of the receipt is the main wheel that sets all the rest a-going; and when that great officer is deficient in his duty, it is not regular, nor indeed possible, for the rest to proceed, but all process against accomptants must be at a stand, and your majesty, and all your loyal subjects must extremely suffer by it. And as to the clerk of the pells, he is to examine the imprest rolls, but the auditor is obliged to transmit them to the remembrancer; and when, through the neglect or corruption of the said officers, this ancient method and course of the Exchequer, was not so strictly observed as it ought to have been, it was expressly provided by an act of parliament, so lately made as in the eighth and ninth year of the reign of his late majesty king William of glorious memory, and entitled, 'An 'Act for the better Observation of the Course 'anciently used in the Receipt of the Exche-'quer,' in these words following: that is to say, 'That the auditor of the receipt shall 'transmit the ordinary imprest rolls half-yearly 'to the king's remembrancer, in order to the 'charging or prosecuting of accomptants; and 'shall half-yearly, to wit, at Easter and Mi-'chaelmas, make out and transmit to the said 'commissioners of the Treasury, or the trea-'surer for the time being, the declaration of 'the receipt, issues and remains at the Exche-'quer for every half-year successively; all 'which matters and things, and all other 'matters and things belonging to the office and 'duty of the auditor of the receipt, shall be 'faithfully and carefully done and performed 'by the auditor of the receipt for the time be-'ing, in such manner as hath been anciently 'accustomed. And it is hereby farther pro-'vided, that the said auditor do, as frequently 'as he thinks fit, but at least once in every 'three months, carefully examine the teller's 'vouchers, for the payments which he allows in 'his weekly certificates.' But so it is, most gracious sovereign, that notwithstanding the plain and express words of the said statute so lately made, Charles lord Hallifax, the present auditor of the receipt, though he was himself a member of that parliament, yet he hath taken so little care to discharge the duty of his office, for the interest of your majesty and the security of the public, that he hath not duly performed any one of the particulars above-mentioned; and for want of examining the tellers legal vouchers, the said auditor manifestly deceived your majesty and the public, by inserting into the weekly certificates of the receipts, issues, and remains of the Exchequer, such sums of money as were never actually and *bona fide* paid to the proper parties, nor the crown legally discharged thereof: And as to the imprest-rolls, your Commons cannot without grief observe to your majesty, that notwithstanding there may be six imprest-rolls now transmitted to the remembrancer, yet it is well known in the said office, that none of the said rolls from the 28th of June, 1700, exclusive, were so transmitted, till very lately after the 22nd of January last, and after the said Commissioners of Accounts had made their enquiries into that neglect by order of your Commons; which being

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long after the time they ought to have been transmitted, the said auditor was very far from doing his duty in this particular; and by reason of this neglect, no charge could be made in the mean time upon the respective accomptants, who have received vast sums of the public money, which are unaccounted for to this day; and by this means, notwithstanding the imprest accomptants, ought annually to account within three months after the end of each year, yet due process hath not, nor indeed could be issued out against them; and many persons who have received great sums by way of imprest, from the treasurer of the navy, and paymaster of the army, are screened from prosecution, and not being set *insuper* in the Exchequer, cannot be regularly called to an account for the monies by them received: And we have great reason to believe, that the damage to the public by this neglect in the said auditor and his predecessor, may amount to several millions of money, since by length of time (during which the principal accounts have been neglected) many of the persons who received the said public monies, are either dead, or become insolvent; and the greater the neglect of the former auditor was, before the making the said statute, and before the present auditor came into his office, the greater ought to have been his care to discharge his duty, pursuant to that law, which he himself was present at the making of, and which he has so highly neglected for the space of three years and upwards, ever since he came into the said office, to the great detriment of your majesty, and all your loyal subjects.

"And notwithstanding it was also provided by another act in the fourth year of the late king William and queen Mary, chap. 3, that in case any officer of the Exchequer should demand or take any fee, gratuity or reward, or misapply any of the weekly sums therein mentioned, or should not perform other things which by the said act they are required to perform, they shall forfeit their offices, and be incapable of any office or place of trust, yet the said auditor hath acted contrary to the said statute, and hath received several sums of money to his own use, contrary to law and the trust reposed in him: for all which, or any other breaches of his duty, as well as for those formerly laid before your majesty, (for whose gracious answer to our humble address on that occasion, we return your majesty our most humble and hearty thanks) we earnestly desire your majesty will be graciously pleased to order your Attorney-General, effectually to prosecute at law the said auditor of the receipt: And thus, as we have seen great and good actions rewarded by your majesty, we doubt not but to see all deceits and mismanagements duly punished; since your Commons can propose no benefit to themselves by all their enquiries, unless the laws are put in due execution, and those who have lived so long in defiance of them, come at last to feel their weight.

"And by the neglect of the said auditor and his predecessor, the auditors of the imprest, and the remembrancer, and other officers of the Exchequer, have not been able to proceed in their duty, according to the law and course of the Exchequer; several of which officers have been also negligent therein, whereby all the public accounts of the nation are far behind. The state whereof (as delivered in to the said commissioners of accounts) in the particulars hereafter mentioned, is as followeth:

"The earl of Ranelagh, late Paymaster of your majesty's forces, of one and twenty millions and upwards, received in fourteen years time, hath passed no account during all the late reign, farther than the last of December, 1690, nor any other account farther than March 1692, which was not declared before the 20th of June last, and even that upon vouchers, which were not sufficient for a legal discharge.

"The Commissioners for the Sick and Wounded have brought in no account during all the late reign, and none since, any farther than the 31st of December, 1690.

"The late Treasurer of the Chamber, sir Rowland Gwyn, the late Master of the Robes, the earl of Albemarle, and Mr. Parkhurst, Mr. Paschall, and others, Commissioners of the Prize-Office, have delivered in no accounts at all to the auditors of the imprest.

"Jacob Vanderesche, esq. Paymaster of his late majesty's Dutch forces, hath received 3,025,753*l.* 9*s.* 6*d.* which by computation is 52,907*l.* 6*s.* 8½*d.*, more than the pay of those troops could have amounted to, if they had been always compleat; no deductions made from them, and upon an English establishment which all of them were not; and yet the said Vanderesche hath passed no account at all; and though often summoned, hath never appeared before the said Commissioners of the public accounts, but stands indebted to the said troops in 112,229*l.* 9*s.* 8*d.*; which is now demanded as an arrear due to them, your majesty and the public.

"The late Treasurer of the Navy, of seventeen millions and upwards received, hath brought in several accounts, to the last of December, 1698. His account for the year 1692, was declared the 3d day of July last; since which the accounts of the three following years only have been declared.

"The said Treasurer, by Mr. Papillion, cashier of the Victualling Office, hath passed no account during all the late reign, farther than the 31st of December, 1696, which was not declared till the 19th of May, 1701; and on the foot of that account he remained indebted 534,027*l.* 3*s.* 3*d.*

"And many other accomptants, whom it would be too tedious to enumerate to your majesty, are either far behind in their accounts, or have never brought in any accounts at all; insomuch that although 45,568,725*l.* 19*s.* 2½*d.* (a sum never known to be raised in very many reigns before) hath been levied on your majesty's good subjects, and issued out of the Exchequer to the several Paymasters and

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Treasurers of the navy, army and ordnance, for the service of the late war, between the 5th of November, 1688, and the 8th of March last past, (besides the several millions of money raised for other public uses) yet the far greatest part thereof hath not been accounted for to this day, to the great dissatisfaction of your people, and the great dishonour of the nation.

"By these neglects and delays, all accounts have been rendered so intricate and confused, that the several accomptants have had great opportunities of defrauding the public, the discovery of their frauds has been made very difficult, and a hindrance thereby is given to the passing all succeeding accounts.

"Hence it is that so many public officers and accomptants have raised great estates to themselves, at the expence of the public, when it is evident they have had no lawful means to attain them; and several persons, whose duty it was to hinder such exorbitancies, measuring their requests rather by their own avarice than their merit, have obtained for themselves grants to such a value, as in foregoing reigns have been esteemed large supplies towards great and public services; which has been another great cause of the debt that lies upon the nation.

"And your Commons do farther humbly represent to your majesty, that notwithstanding such vast sums issued out to the said late Paymaster and Treasurer, whereby your Commons had amply provided for all those services, and for the effectual carrying on the war against France; yet they find, to their great sorrow, that not only the officers, but the seamen and soldiers, who on all occasions have behaved themselves bravely in defence of their country, have not been paid during the late war, and that great sums are still owing to many of them: whereas if the public money had been duly applied to the uses for which it was given by your Commons, instead of those many hardships that were endured by your majesty's most faithful subjects and their families, who served so well in your fleets and armies, they would have had justice done them during the last war, and been encouraged more chearfully to engage themselves in this.

"But, instead of justice, we have too much reason to believe, that those very persons, who by long and unnecessary delays have compelled them to accept of remote tallies and paper-securities, have (amongst others) taken advantage of their necessities, and employing brokers to buy up those tallies and securities at a low rate, have afterwards paid themselves with that ready money which they should at first have distributed to the seamen and soldiers.

"And such was the mysterious trade upon tallies and Exchequer-Bills, which was formerly carried on by common brokers, betwixt the Exchange and the Exchequer, and which did, as it were, prey upon the very vitals of the government; and so great gain was made thereby, at the expence of the public, that vast sums of money were employed in it, which did very much lessen the true trading stock of the nation, whereby both the exportation of the woollen and other manufactures of this kingdom, and the importation of bullion, and other commodities of foreign countries, to be manufactured in England, have been very much obstructed, to the great prejudice of your majesty's customs, the loss of the balance of trade, and the great impoverishment of the whole kingdom.

"And though the late Paymaster and Treasurer, by long and unnecessary delays in settling their accounts, have in great measure prevented any discovery of their undue proceedings, and have endeavoured to protect themselves from a just and fair account to the nation, by privy-seals and other unjustifiable warrants, surreptitiously obtained for passing their accounts, without proper vouchers, contrary to the law and course of the Exchequer; yet your Commons, by the great fidelity and diligence of the same Commissioners for the taking, examining and stating the public accounts of the kingdom, have not only discovered the several mismanagements above-mentioned, but also some of the unwarrantable proceedings used by the said late Paymaster of your majesty's forces, by whom a considerable part of the money which came to his hands, and which ought not to have been applied to any other purpose than the payment of the army, hath been diverted to his own and to other private uses; for all which, upon a full and fair hearing in his own defence, he hath justly incurred the censure of this house, and been declared guilty of a high crime and misdemeanor.

"And we find, to our unspeakable grief, whilst his late majesty was engaged in the prosecution of the glorious design of preserving the protestant religion, and the liberties of Europe, and was thereby necessitated to commit the care of the public affairs in this kingdom to particular ministers, (whereof none were more particularly entrusted in the chief administration than those who have been the great causes of the unhappy differences among us:) this general mismanagement of the public affairs did actually spread itself over the whole kingdom, and seems to be owing (amongst other things) to a disposition of offices and places, where men were rather chosen for their inclinations to serve a party, than for their qualifications to serve the public.

"And these men being conscious to themselves of the many frauds and offences committed against the public, have no other hopes to shelter themselves from justice, than by taking away the reputation of those who desire to do right to their country, by detecting their iniquities; and being united in guilt and interest they endeavor to amuse and impose upon those, whose posterity, we have too much reason to fear, will groan under the sad effects of the wickedness of the one, and the too great credulity of the other.

"These, dread sovereign, are divers of the causes of those mischiefs your kingdom suffereth by the late mismanagements, and which your loyal Commons could not omit thus hum-

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bly to represent in all dutiful manner, without being unfaithful to your majesty, and to the country by whom they are entrusted.

"From hence your majesty will be graciously pleased to take notice, that the great debt which lies upon the nation, and all the arrears which are owing to your majesty's forces, do not arise so much from the deficiencies of the funds, as for want of care in the management, and fidelity in the application of them.

"But since it hath pleased Almighty God to place your sacred majesty on the royal throne of your ancestors, we have so entire a confidence in your majesty's goodness, that we can no longer fear to see the public revenue mismanaged or misapplied, the accounts neglected, or the forces unpaid: and we chearfully depend on your majesty's wisdom, that all our grievances, by your grace and favour, will in due time be redressed and removed, by punishing those who have been the causes of them, and by entrusting none in the administration of the public affairs, who, for their own private advantage, have manifestly contributed to the calamity of their country.

"This (most gracious sovereign) will be the only effectual means to prevent the like mismanagement for the future; and thereby to make your majesty's reign happy at home and prosperous abroad.

"This will be the best means to enable and encourage your dutiful Commons to raise those supplies which shall be necessary to support your majesty against all your enemies.

"Thus we humbly crave leave, upon this occasion, to repeat our assurances to your majesty, that we will always stand by and assist your majesty to the utmost of our power, in preserving the established government both in church and state, maintaining the ancient glory of the English nation, and defending the liberties of Europe against the boundless ambition of France."

The Queen's Answer.] To this address her majesty made answer:

"Gentlemen, the repetition of these assurances you give me in this address, of your zeal for my service, and the good of the kingdom, is very acceptable to me. I shall consider the several particulars of it, and always have great regard to the representations of the house of commons, and the true interest of England."

Several Bills moved this Session, but not finished.] Several bills had been moved this session (some of which passed the Commons) but were not finished. On the 23d of December, sir Edward Seymour moved for leave to bring in a bill 'to resume all the grants made 'in king William's reign, and applying them to 'the use of the public.' This was carried by a majority of 180 against 78, though the bill was afterwards dropped by the Commons themselves. At the same time it was moved by Mr. Walpole, 'That all the Grants, made in the 'reign of the late king James, should also be 'resumed.' But this by the same Commons was passed in the negative. Sir John Holland then made a motion to bring in a bill 'for the 'more free and impartial proceedings in par-'liament, by providing; that no person what-'soever in office or employment should be ca-'pable of sitting in parliament,' which also passed in the negative. How, Musgrave, Seymour, &c. who had so vehemently pushed the like bill in king William's reign, were now as warm in opposing this, and instead of it carried a bill 'for the more free and impartial 'proceedings in parliament, by providing, that 'no person shall be chosen a member, but such 'as have a sufficient real estate.' This bill was rejected by the Lords, on the 22d of February.

The Queen's Speech at the Close of the Session.] Feb. 27. While the disputes between the two Houses* were in agitation, her majesty being desirous to have an end put to their sitting, ordered Mr. Secretary Hedges to acquaint the Commons, that she desired they would give all possible diligence to the business depending, her majesty finding it necessary for the public affairs, to put an end to that session; upon which they resolved on an Address to her majesty, humbly to lay before her, That they had already dispatched all the necessary busi-

* "During this session the Lords had rendered themselves very considerable, and had gained an universal reputation over the whole nation: it is true, those who had opposed the persons, that had carried matters before them in this session, were so near them in number, that things of the greatest consequence were carried only by one or two voices; therefore as they intended to have a clear majority in both houses, in the next session, they prevailed with the queen, soon after the prorogation, to create four new peers, who had been the violentest of the whole party; Finch, Gower, Granvil, and young Seymour, were made barons. Great reflections were made upon this promotion; when some severe things had been thrown out in the House of Commons upon the opposition, that they met with from the Lords, it was insinuated, that it would be easy to find men of merit and estate to make a clear majority in that house: this was an open declaration of a design, to put every thing in the hands and power of that party: It was also an encroachment on one of the tenderest points of the prerogative, to make motions of creating peers in the House of Commons. Hervey, though of the other side, was at the same time made a baron, by private favour. Thus the session of parliament was brought to a much better conclusion, than could have been reasonably expected by those, who knew of whom it was constituted, and how it had begun. No harm was done in it: the succession was fortified by a new security, and the popular clamours of corruption and peculate, with which the nation had been so much possessed, were in a great measure dissipated." Burnet.

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ness before them. The concluding day at length came, when her majesty went to the House of Lords, and sending for the Commons, was pleased to give her royal assent to several public and private Bills. Which done, her majesty made the following Speech to both Houses:

"My lords and gentlemen; I return you my hearty thanks, for the great dispatch you have given to the public affairs in this session; which is an advantage extremely material at all times; and I hope we shall find the fruit of it this year, in the forwardness of our preparations.—I am to thank you, gentlemen of the House of Commons, in particular, for the great supplies with which you enable me to carry on the war: It shall be my care, to have them strictly applied to the uses for which you have designed them, and to the best advantage for the public service. You have reposed great confidence in me, by allowing so unusual a latitude as you have done, in the clause of appropriation: I shall improve all opportunities, in the use of it, for the honour and true interest of the nation.—I must further take notice to you that the readiness you have shewn in the provision made for the prince is a very sensible obligation to me.

"My lords and gentlemen; I desire and expect from you, that you make it your business, in your several countries, to continue and preserve the quiet and satisfaction of all my subjects: I hope, that such of them as have the misfortune to dissent from the church of England will rest secure and satisfied in the Act of Toleration, which I am firmly resolved to maintain, and that all those who have the happiness and advantage to be of our church will consider, that I have had my education in it, and that I have been willing to run great hazards for its preservation: and therefore they may be very sure I shall always make it my own particular care, to encourage and maintain this church, as by law established, and every the least member of it, in all their just rights and privileges; and, upon all occasions of promotions to any ecclesiastical dignity, I shall have a very just regard to such as are eminent and remarkable for their piety, learning, and constant zeal for the church; that, by this and all other methods which shall be thought proper I may transmit it securely settled to posterity.—I think it might have been for the public service, to have had some further laws for restraining the great license, which is assumed, of publishing and spreading scandalous pamphlets and libels; but, as far as the present laws will extend, I hope you will all do your duty, in your respective stations, to prevent and punish such pernicious practices.—Above all other things, I do recommend to you peace and union among ourselves; as the most effectual means, that can be devised, to discourage and defeat the designs of our enemies.—I must not conclude without acquainting you, I have given directions that my part of all the prizes, which have been or shall be taken during this war, be applied entirely to the public service; and I hope my own revenue will not fall so short, but that I may be able, as I desire, to contribute yet further to the ease of my people."

After which the Lord Keeper, by her majesty's command prorogued the parliament to Thursday the 22d of April next.

THE SECOND SESSION OF THE FIRST PARLIAMENT OF QUEEN ANNE.

List of the House of Peers.] Both Houses met on the 9th of November. The following is

A correct LIST of the LORDS Spiritual and Temporal of the Parliament, which met at Westminster, by Prorogation, the 9th of November, 1703.

The right honourable sir Nathan Wrighte, knight, Lord-Keeper of the Great Seal of England, Speaker.

Prince George of Denmark, duke of Cumberland, Lord High Admiral of England, &c.

Sidney Godolphin, lord Godolphin, Lord High Treasurer.

Thomas Herbert, earl of Pembroke and Montgomery, Lord President of the Council.

John Sheffield, duke of Buckingham and Normanby, Lord Privy Seal.

William Cavendish, duke of Devonshire, Lord Steward of the Houshold.

† Thomas Howard, duke of Norfolk, Hereditary Earl Marshal of England.

Charles Seymour, duke of Somerset.

Charles Lenox, duke of Richmond,

Charles Fitz-Roy, duke of Southampton.

* Charles Fitz-Roy, duke of Grafton.

James Butler, duke of Ormond.

* Henry Somerset, duke of Beaufort.

George Fitz-Roy, duke of Northumberland.

Charles Beauclair, duke of St. Albans.

James Fitz-James, duke of Berwick. Outlawed.

Charles Paulet, duke of Bolton.

Meinhard Schomberg, duke of Schomberg.

Charles Talbot, duke of Shrewsbury.

Thomas Osborne, duke of Leeds.

Wriothesley Russel, duke of Bedford.

John Hollis, duke of Newcastle.

John Churchill, duke of Marlborough.

John Manners, duke of Rutland.

MARQUIS.

William Herbert, marquis of Powys. Outlawed.

EARLS.

Robert Bertie, earl of Lindsay, Lord Great-Chamberlain of England.

Charles Howard, earl of Carlisle, Earl-Marshal of England, during the minority of Thomas, duke of Norfolk, Hereditary Earl-Marshal of England.

Edward Villiers, earl of Jersey, Lord Chamberlain of the Houshold.

Henry Grey, earl of Kent.

James Stanley, earl of Derby.

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George Hastings, earl of Huntington.
* Henry Clinton, earl of Lincoln.
Henry Howard, earl of Suffolk.
Charles Sackville, earl of Dorset and Middlesex.
* James Cecil, earl of Exeter.
Scroop Egerton, earl of Bridgwater.
Philip Sidney, earl of Leicester.
George Compton, earl of Northampton.
* Edward Henry Rich, earl of Warwick and Holland.
Basil Fielding, earl of Denbigh.
Powlet St. John, earl of Bolingbroke.
* Thomas Fane, earl of Westmoreland.
Charles Montagu, earl of Manchester.
Thomas Howard, earl of Berkshire.
Richard Savage, earl Rivers.
Charles Mordaunt, earl of Peterborough and Monmouth.
Thomas Grey, earl of Stamford.
Charles Finch, earl of Winchelsea.
Evelyn Pierrepoint, earl of Kingston.
Charles Dormer, earl of Carnarvon.
Philip Stanhope, earl of Chesterfield.
Thomas Tufton, earl of Thanet.
Charles Spencer, earl of Sunderland.
Robert Leke, earl of Scarsdale.
Edward Montagu, earl of Sandwich.
Henry Hyde, earl of Clarendon.
Algernon Capell, earl of Essex.
† George Brudenell, earl of Cardigan.
John Annesley, earl of Annesley.
* William Henry Granville, earl of Bath.
Thomas Bruce, earl of Ailesbury. Extra Regnum.
Charles Boyle, earl of Burlington.
Anthony-Ashley Cooper, earl of Shaftesbury.
Edward-Henry Lee, earl of Litchfield.
Thomas Lennard, earl of Sussex.
Lewis de Duras, earl of Feversham.
Charles Bodvile Roberts, earl of Radnor.
William Paston, earl of Yarmouth.
Charles Berkeley, earl of Berkeley.
Daniel Finch, earl of Nottingham.
Laurence Hyde, earl of Rochester.
Montague-Venables Bertie, earl of Abingdon.
* Baptist Noel, earl of Gainsborough.
Robert D'arcy, earl of Holderness.
* Other Windsor, earl of Plymouth.
† Edward Radclyffe, earl of Derwentwater.
† Henry-Stafford Howard, earl of Stafford.
William Bentinck, earl of Portland.
Ralph Montagu, earl of Montagu.
Arthur Herbert, earl of Torrington.
Richard Lumley, earl of Scarborough.
George Booth, earl of Warrington.
Francis Newport, earl of Bradford.
Henry Sidney, earl of Romney.
William Zulestein, earl of Rochford.
Arnold Joust van Keppell, earl of Albemarle.
Thomas Coventry, earl of Coventry.
Edward Russel, earl of Orford.
Henry d'Auverquerque, earl of Grantham.

VISCOUNTS.

Price Devereux, viscount Hereford.
Francis Brown, viscount Montacute.
Nathaniel Fiennes, viscount Say and Seal.
† Thomas Belasyse, viscount Falconberg.
Charles Townsend, viscount Townsend.
Thomas Thynne, viscount Weymouth.
Christopher Hatton, viscount Hatton.
Henry Yelverton, viscount Longueville.
* Richard Lowther, viscount Lonsdale.

BARONS.

George Neville, lord Bergevenny.
* James Touchet, lord Audley.
John West, lord De La War.
Robert Shirley, lord Ferrers.
Charles Mildmay, lord Fitz-walter.
* Edward Ward, lord Dudley and Ward.
† Edward Stourton, lord Stourton.
Richard Verney, lord Willoughby of Broke.
Ralph Eure, lord Eure.
Thomas Wharton, lord Wharton.
Hugh Willoughby, lord Willoughby of Parham.
William Paget, lord Paget.
Thomas Howard, lord Howard of Effingham.
William North, lord North and Grey of Rolleston.
James Brydges, lord Chandos.
† William Cary, lord Hunsdon. Extra Regnum.
† Thomas Petre, lord Petre.
† Charles Gerard, lord Gerard of Gerard's Bromley.
† Thomas Arundel, lord Arundel of Wardour.
† Henry Roper, lord Tenham.
Foulk Greville, lord Brooke.
Ralph Gray, lord Gray.
John Lovelace, lord Lovelace.
John Poulet, lord Poulet.
Banaster Maynard, lord Maynard.
Charles Howard, lord Howard of Escrick.
Charles Mohun, lord Mohun.
Thomas Wentworth, lord Raby.
Thomas Leigh, lord Leigh.
† Henry Jermyn, lord Jermyn and lord Dover.
William Byron, lord Byron.
John Vaughan, lord Vaughan.
† Charles Smith, lord Carrington.
William Widdrington, lord Widdrington.
John Culpeper, lord Culpeper.
Robert Lucas, lord Lucas.
Lewis Watson, lord Rockingham.
Robert Sutton, lord Lexington.
† Marmaduke Langdale, lord Langdale.
William Berkeley, lord Berkeley of Stratton.
Charles Cornwallis, lord Cornwallis.
Dr. Nathaniel Crew, lord Crew and lord bishop of Durham.
John Arundel, lord Arundel of Treryse.
William Craven, lord Craven.
† Hugh Clifford, lord Clifford.
Peregrine Osborn, lord Osborn.
John Carteret, lord Carteret.
Charles Bennet, lord Ossulstone.
William Legge, lord Dartmouth.
William Stawell, lord Stawell.
Francis North, lord Guilford.
† James Waldegrave, lord Waldegrave.

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Edward Griffin, lord Griffin. Outlawed.
Hugh Cholmondeley, lord Cholmondeley.
John Ashburnham, lord Ashburnham.
William Farmer, lord Lempster.
Charles Butler, lord (Butler of) Weston.
Henry Herbert, lord Herbert.
John Thompson, lord Haversham.
John Somers, lord Somers.
Christopher Vane, lord Barnard,
Charles Montagu, lord Hallifax.
‡ John Granville, lord Granville.
‡ Heneage Finch, lord Guernsey.
‡ John-Leveson Gower, lord Gower.
‡ Francis Seymour Conway, lord Conway.
‡ John Hervey, lord Hervey.

☞ Note, Those marked † are Roman Catholic, and those with * prefixed, are all under age. The last five ‡ created by queen Anne, and lord Hervey at the instance of the then reigning favourite, Sarah Duchess of Marlborough.

ARCHBISHOPS AND BISHOPS.

Dr. Thomas Tennison, lord archbishop of Canterbury.
Dr. John Sharp, lord archbishop of York.
Dr. Henry Compton, lord bishop of London.
Dr. Nathaniel Crewe, lord bishop of Durham, and lord Crewe.
Dr. Peter Mew, lord bishop of Winchester.
Dr. William Beaw, lord bishop of Landaff.
Dr. William Lloyd, lord bishop of Worcester.
Dr. Thomas Sprat, lord bishop of Rochester.
Sir Jonathan Trelawny, bart. D.D. lord bishop of Exeter.
Dr. Gilbert Burnet, lord bishop of Salisbury.
Dr. Humphrey Humphreys, lord bishop of Hereford.
Dr. Nicholas Stratford, lord bishop of Chester.
Dr. Symon Patrick, lord bishop of Ely.
Dr. John Hough, lord bishop of Coventry and Litchfield.
Dr. John Moore, lord bishop of Norwich.
Dr. Richard Cumberland, lord bishop of Peterborough.
Dr. Edward Fowler, lord bishop of Gloucester.
Dr. John Hall, lord bishop of Bristol.
Dr. James Gardner, lord bishop of Lincoln.
Dr. John Williams, lord bishop of Chichester.
Dr. William Talbot, lord bishop of Oxford.
Dr. John Evans, lord bishop of Bangor.
Dr. William Nicolson, lord bishop of Carlisle.
Dr. George Hooper, lord bishop of Bath and Wells
Dr. William Beveridge, lord bishop of St. Asaph.

The Queen's Speech on opening the Session.] November 9. The Queen opened the Session with the following Speech to both Houses:

"My Lords and Gentlemen; I have called you together as soon as I thought you could conveniently come out of your countries, that no time might be lost in making our preparations for carrying on the present war, in which I do not doubt of your chearful concurrence; since we cannot but be sensible, that on the success of it depends our own safety and happiness, and that of all Europe.—I hope I have improved the confidence you reposed in me last year, to your satisfaction and the advantage of us, and our allies, by the treaty with the king of Portugal, and the declaration of the duke of Savoy, which in a great measure may be imputed to the chearfulness with which you supported me in this war, and the assurance with which you trusted me in the conduct of it: And we cannot sufficiently acknowledge the goodness of Almighty God, who is pleased to afford us so fair a prospect as we have now, of bringing it to a glorious and speedy conclusion.—I must therefore desire you, gentlemen of the House of Commons, to grant me such supplies as shall be requisite to defray the charge of the war in the next year, with regard not only to all our former engagements, but particularly to our alliance lately made with the king of Portugal, for recovering the monarchy of Spain from the House of Bourbon, and restoring it to the House of Austria: which treaty being in itself of the highest importance imaginable, and requiring all possible dispatch in the execution of it, has necessarily occasioned a great expence even in this present year, though not so much as it will require, and for which, I hope, we shall be amply recompensed in the next.—The subsidies which will now be immediately required for the assistance of the duke of Savoy, will likewise occasion a farther necessary charge.—I must take notice to you, That though no particular provision was made in the last session, either for the charge of our present expedition to Portugal, or for that of the augmentation-troops desired by the States-general, yet the funds given by parliament, have held out so well, and the produce of the prizes has proved so considerable, that you will find the public will not be in debt by reason of either of these additional services.—I may further observe to you, That though the funds for civil government are diminished by the war, I have, in conjunction with the States-general, contributed out of my own revenue towards some public services, and particularly the support of the circle of Swabia, whose firm adherence to the interest of the allies, under the greatest pressures, did very well deserve our seasonable assistance: And I shall still be careful not to engage myself in any unnecessary expence of my own, that I may have the more to spare towards the ease of my subjects.

"My Lords and Gentlemen; I heartily wish some easy and less chargeable method could be found for the speedy and effectual manning of the fleet.—I must also recommend to you, to make some regulation for preventing the excessive price of coals. I have examined this matter, and taken particular care to appoint convoys for that service; but the price has not been in the least abated, notwithstanding a very considerable quantity has been imported since that time; This gives great ground of suspicion there may be a combination of some persons to enrich themselves by a general oppression of

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others, and particularly the poor. It will deserve your consideration how to remedy this great inconvenience.—And in all affairs I must recommend to you as much dispatch as the nature of them will admit; This is necessary to make our preparations early, on which in great measure depends the good success of all our enterprizes.—I want words to express to you my earnest desire of seeing all my subjects in perfect peace and union among themselves; I have nothing so much at heart as their welfare and happiness: Let me therefore desire you all that you would carefully avoid any heats or divisions that may disappoint me of that satisfaction, and give encouragement to the common enemies of our church and state."

The Lords' Address thereon.] Nov. 10. The Lords presented the following Address to her Majesty:

"We your majesty's most dutiful and loyal subjects, the lords spiritual and temporal in parliament assembled, do offer up our hearty acknowledgements to Almighty God, for the preservation of your royal person, so essential to the happiness of your people, and the safety of Europe.—We see, with the greatest satisfaction, the zeal with which your majesty espouses the public interest; which carries you even beyond the obligations of your treaties, in defence of the house of Austria, against the usurpations of the house of Bourbon; and the glorious restitution of that family to the monarchy of Spain, which we have great reason to expect, from the late alliance with the king of Portugal, will be chiefly owing to your majesty's arms and assistance.—Your majesty may depend upon security at home, in the love of your people. Our persons and fortunes shall ever be ready to defend you upon all occasions; and your majesty may therefore, with the greater safety and glory, send your fleets and armies abroad, in the defence of your allies.—The happy Declaration of the duke of Savoy, for the common interest, gives your majesty a seasonable opportunity to shew your compassion and concern for those Protestants in the South of France, who lie under the heaviest persecution and oppression.—We lament, for ourselves and others, the unavoidable expences of war; but have reason to thank God, and your majesty, that we are free from all the other calamities of it, having almost nothing else to wish for (being secured of a Protestant succession) but your long and happy reign over us: And we shall most willingly pay our proportion of taxes, encouraged by your royal generosity for the ease of your people, and by the frugal management of what is given; being sensible there is no better way to save the wealth of the nation, than by carrying on the war at this time with the utmost vigour.—Your majesty may expect from us a most ready compliance with all your desires, so justly merited by your care of the general welfare and happiness of your people, extended even to the poorest and meanest of your subjects.—This appears yet more eminently, in that earnest and pressing recommendation to your parliament, of union and peace amongst themselves; and we, in the most solemn manner, assure your majesty, that we will not only avoid, but oppose, whatsoever may tend to create any disquiet or disunion amongst your subjects.—We shall never be wanting in any part of our duty, towards the supporting your majesty's honour and your allies; not doubting but Almighty God will prosper your majesty's arms, so gloriously employed to protect all those whom the ambition of the French king would oppress."

The Queen's Answer.] To which her Majesty answered:

"I am extremely sensible of the particular concern you express for me in this address, and of your great zeal for the common cause of Europe.—I rely very much upon the assurances you give me of your duty and affection; and shall always use my best endeavours to establish the safety and happiness of the kingdom."

The Commons' Address.] Nov. 11. The following Address of the Commons was presented to her Majesty:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects the Commons in Parliament assembled, do humbly return your majesty our most hearty thanks for your majesty's most gracious speech from the throne.—We are truly sensible of your majesty's earnest endeavours to bring the war to a glorious and speedy conclusion, of which your majesty has given us so fair a prospect by your great wisdom and conduct, in engaging the king of Portugal and duke of Savoy in your alliance, for recovering the monarchy of Spain from the house of Bourbon, and restoring it to the house of Austria.—We do most gratefully acknowledge your majesty's singular care in the good management and application of the public money, whereby your majesty's Exchequer hath greater credit in this so expensive a war than was ever known in the most flourishing times of peace; and your most signal and unparalleled grace and goodness to your people, in contributing out of your own revenue towards the public service, particularly your majesty's most seasonable assistance to the circle of Swabia.—The many blessings we enjoy under your majesty's most auspicious reign, and your tender regard to the general welfare and happiness of your subjects, justly require our utmost returns of duty and gratitude. And your majesty may be assured, that your faithful Commons will support your majesty in your alliances, and effectually enable your majesty to carry on the war with vigour, to which nothing can more contribute than a firm union among ourselves: we therefore crave leave further to assure your majesty, That we will, according to your majesty's desire, carefully avoid any heats or divisions that may give encouragement to the common enemies of the church and state."

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The Queen's Answer.] To which her majesty answered:

"I am well pleased with your assurances of supporting me in the present war, and your kind acknowledgments of my endeavours to bring it to a happy conclusion.—You may assure yourselves I shall always pursue the true interest of the kingdom, and omit nothing that may promote the general welfare of my people."

Proceedings in the Commons on the Bill against Occasional Conformity.] November 25. A motion was made in the Commons, for bringing in the bill against Occasional Conformity: great opposition was made to it; the court was against it, but it was carried by a great majority, that such a bill should be brought in. So a new draught was formed. In it, the preamble, that was in the former bill, was left out. The number, besides the family, that made a conventicle, was enlarged from five to twelve: and the fine set on those who went to conventicles, after they had received the sacrament, besides the loss of their employment, was brought down to fifty pound.

Sir John Packington's Speech thereon.] The following Speech was made by sir John Packington on that occasion, and seems to contain the sense of the majority of that house:

"Mr. Speaker, her majesty has been pleased in all her speeches, to give us so many assurances of supporting the church of England as by law established; and also such instances of being punctual to her promise in this particular, that I think she very justly deserves the title of Defender of the Faith. Her desire to see this bill succeed the last sessions of parliament, was sufficiently shewn by the prince of Denmark's constant attendance upon it; and I believe the reason why some persons opposed it, was because the queen seemed to espouse it.—But pray, gentlemen, let us consider, how this bill came to be lost? why, two or three noble lords were by turns to be absent? the miscarriage of the bill was imputed to their want of attendance, when at the same time they were desired to be out of the way. And is it not a shame, that we, who have given fourscore millions of money for the preservation of the Protestant Religion, should have trimming at last in a bill to prevent hypocrisy?—It was a law among the Athenians, that when any mutiny or difference arose in the city of Athens the inhabitants should take one side or other, or else they banished them the city: and truly sir, when members of parliament, and ministers of state stand neuter in matters that nearly concern the interest of the church of England, and have not courage to own their opinion, I think they very well deserve to be turned out. Every gentleman here is sent up to give his vote, and when he declines that, he cannot be properly said to serve the place he represents. This I take to be the worst sort of cowardice. —But pray, sir, let us inquire into the meaning of all this trimming. Are we afraid to disoblige a party of men, that are against the church and government? whose principle of hatred and malice to the family of the Stuarts descends to them by inheritance? men, sir, that offered open violence to her majesty's royal grandfather; men that have not only the impudence at this time to justify that fact, but to turn the day of his murder into ridicule, and keep a calf's-head-feast in the city. And can we imagine that those who are enemies to her majesty's person and office, and that were for hindering her from coming to the throne, would not be glad of any opportunity to shove her out of it?—Are these the men to be countenanced and encouraged? this in plain English makes me believe this ministry has too great a resemblance of the last; that my lord S——d is risen from the dead, and now become prime minister of state.—And now I am upon this subject, give me leave to tell some gentlemen here, who have been bellowing and roaring against persons for taking places in the late reign, that it is a reflection upon them to hold and continue their places, in the company of those that they have been exclaiming against. —They may remember, if they please to recollect the language in the late reign——sir, you must turn this gentleman out, or else I cannot serve you.——And if any gentleman was in the interest of the church of England, 'twas a sufficient exception against his being employed. No gentleman of that principle was then thought fit to be a deputy-lieutenant, or a justice of peace. If we would take the same resolution, and the same spirit, things might be better managed than they are.—I did wonder to hear so many Bishops against this bill, but that wonder ceased, when I considered whom they owed their preferment to. The Archbishop of C————y, I think, was promoted to that see by my Lord S——d's interest; and being asked what reasons he had against this bill, replied, he had not well considered the bill, but that my Lord S————d told him it ought not to pass.——This was a very weighty reason for the head of our Church to give; and yet, I dare say, none of the rest of them could give a better. One would be provoked, by the late behaviour of the Bishops, to move for leave to bring in a bill for the toleration of Episcopacy; for, since they are of the same principles with the dissenters, it is but just, I think, that they should stand on the same foot.—Now, Sir, give me leave to answer some objections made against this bill. The first is, that it is unseasonable at this time. Why unseasonable; is it not as seasonable for us to pass a law, for the further defence of the church of England here, as it was for Scotland to pass an act last sessions for the security of the kirk there? why unseasonable? does the success of our arms abroad, or the levying money at home depend upon it? no gentleman can say, that either of them do; and since there can be no objection made against the goodness of the bill, why should we defer the putting it in execution?—Another argument against this bill, is, that it will create divisions. Are we to allow a schism to avoid division? the Dissenters

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hold it lawful to communicate sometimes, and if so, why unlawful to communicate at other times? But oh! the fear of offending dissenters is to be urged as an argument, and not provoking the church of England; Either the ministry must think we are so good-natured, as not to be displeased at any thing they do, or else that our number is so inconsiderable, that they do not value it if we are displeased.—Another argument against this bill proceeds from the number and strength of the dissenters. This I take to be an excellent argument for the bill; for, if they are so strong and numerous, it is high time for us to guard ourselves against them, and I appeal to every gentleman here, whether one dissenter in place is not capable of doing more mischief to the church of England, than ten out of it? Suppose, Mr. Speaker, the dissenters had the power in their own hands (as they will certainly in a short time, if not restrained) would they admit the church of England into places of trust, and into the legislature, upon occasional conformity?—Her majesty has been so generous as to offer what further security they think fit for the religion in Scotland; how comes it, that some gentlemen should represent her majesty so much concerned to preserve a religion she is not of, and so unwilling to grant a security for the church in which she expects to be saved? According to this method, one might expect the Scotch covenant to be brought again into England, and that the Presbyterian-party of that kingdom, should remonstrate (as they did to her royal grandfather) the necessity of having one religion, and one worship in both kingdoms.—We have been under great expences in keeping these gentlemen out, and have been traduced as persons designing a French government; and all the return we are like to have for our services and sufferings, in our purses and reputations, is, that these persons are like at last to become our masters, which is a very great discouragement.—Mr. Speaker, I take this practice of Occasional Conformity, to elude the force of one of the best laws made in the church of England's defence, that it is scandalous and knavish in itself, and I will pretend to foretel this; that, by the benefit of this Occasional Conformity, the dissenters will come to be the majority of this house; and then I will venture to pronounce the days of the church of England few. That I may not see such dismal effects of our pretended moderation, I heartily wish success to this bill."

The Bill passes the Commons.] Dec. 7. The Bill passed by a majority of 223 to 140 *.

Debates in the Lords on the Bill against Occasional Conformity.] In the beginning of December the Occasional Conformity-bill was again sent up to the Lords, where it occasioned

* "Notwithstanding the queen, who had been informed that the Occasional Conformity Bill had alarmed a great part of her subjects, who were otherwise well affected to her government, and no less able and zealous to assist her in carrying on the war, had endeavoured, by the warmest expressions, to dissuade the parliament from this measure, yet that bill was again revived. As this had been foreseen by the moderate party, Dr. Davenant, who now seemed to have forsaken his party, by the encouragement, and with the approbation of the lord Hallifax, published a book, entitled, 'Essays 'upon peace at home and war abroad,' wherein he inforced what her majesty had lately recommended from the throne; and endeavoured to bring all sorts of men to lay aside their heats and animosities, and to unite in their own defence, against the common danger, with design to dissuade the bringing in of the Occasional Bill. At the same time sir Humphry Mackworth published a small treatise, 'in defence of the Com-'mons in relation to the Conformity Bill; which pamphlet, however, contained little besides the arguments used a year before on the same subject. At length, about a fortnight after the meeting of the parliament, a motion was made in the House of Commons, for bringing in 'a 'Bill against Occasional Conformity.' Great opposition was made to it; the court was against it; but it was carried by a great majority, that such a bill should be brought in. A new draught was accordingly formed. Though it was the same in substance with the preamble, which was in the former bill, yet in several things it differed. The preamble against 'per-'secution for conscience only,' was now left out. The former bill began, with mentioning the 'act of indulgence,' saying, That 'that 'Act ought inviolably to be observed;' whereas, this takes not the least notice of it. This bill began with mentioning the corporation and test-acts, which it says, 'manifestly intended 'that all persons to be admitted into such of-'fices and employments, should be, and always 'remain conformable to the church of England, 'as by law established; which acts, it says, 'have been notoriously eluded, &c.' And in the 'enacting part,' whereas the former bill allowed but four besides the family where a conventicle was held, this allowed nine, and inflicted no punishment, unless there were ten or more, besides the family. The penalty in the former bill was 10*l.* for every day that the persons concerned continued afterwards in office; But now it was brought down to a forfeiture of 50*l.* There were also some other differences. These were artifices, by which it was hoped, upon such softenings, to carry the bill on any terms; and when that point was gained, it would be easy afterwards to carry other bills of greater severity. There was now such a division upon this matter, that it was fairly debated in the House of Commons; whereas before it went there with such a torrent, that no opposition to it could be hearkened to. Those who opposed the bill, went chiefly upon the ground, that the bill put the dissenters in a worse condition than they were in before; and that it was a breach upon the Toleration, which ought not to be made, since

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the following debate:

The bishop of *Salisbury** (Dr. Burnet) said:

"My Lords; I am very glad to find, that how much heat soever this matter has raised abroad, yet none of that has appeared in all this debate: if a heat of zeal has appeared in some, yet nothing has been mixed with it unbecoming the dignity of this house, and the solemnity of a great council: it is a disadvantage, especially to one of this bench, to speak against any thing, that, in the sound, and first appearance, seems to be intended for the service of the church; and, I am sure, if I were not fully convinced that it is not so, but that, they had not deserved it by any ill behaviour of their's, by which it could be pretended, that they had forfeited any of their benefits designed by that act. That things of this kind could have no effect, but to embroil the nation with new distractions, and to disgust persons well-affected to the queen, and her government. That it was necessary to continue the happy quiet, that the nation now enjoyed, especially in this time of war, in which even the severest of persecutions made their stops, for fear of irritating ill humours too much. The old topics of hypocrisy, and of the danger the church was in, were brought up again on behalf of the bill, which passed the Commons on the 7th of December, by a great majority, and was sent up to the House of Lords, where it occasioned a debate of many hours, whether the bill should be entertained or read a second time, or thrown out. The prince of Denmark appeared no more for it, nor did he come to the house upon this occasion. Some who had voted for it in the former session, kept out of the house; and others owned, that they saw farther into the design of the bill, and so voted against it. The bishops were almost equally divided: There were two more against it than for it. Bishop Burnet distinguished himself by his speech against the bill. He gave the Lords an account how the Test-Act had been carried, and mentioned the many practices of the Papists, in order to set the church against the dissenters, and the dissenters against the church, by turns, as it might serve their ends. He ventured to say, that a man might lawfully communicate with a church which he thought had a doctrine and a worship uncorrupted, and yet communicate more frequently with a church, which he thought more perfect; and that he himself had communicated with the churches of Geneva and Holland, and yet at the same time communicated with the church of England; So that, though the dissenters were in a mistake as to their opinion, which was the more perfect church, yet, allowing them a Toleration in that error, this practice might be justified. Several of the temporal lords spoke also against the bill, particularly the lord Haversham, the duke of Devonshire, the earl of Pembroke, the lord Mohun, the lord Ferrars, and the lord Wharton. The last of these, to shew the unseasonableness of any thing, that led to persecuting their Protestant brethren, took notice of the distracted state of Scotland, and of the insolence of the Papists in Ireland; adding, that the house ought rather to imitate the parliament of Ireland in their zeal against popery, than to frame laws to increase divisions here. Nor did the lord Mohun stick to say, "That if they passed this bill, they had as good tack the pretended prince of Wales to it." Upon the whole matter, it was carried by a majority of 12 not to give it a second reading, but to reject it. The clergy over England, who were generally inflamed in this matter, could hardly forgive the queen and the prince the coldness, which they expressed on this occasion. The lord Godolphin did so positively declare, he thought the bill unseasonable, and had done all he could to hinder its being brought in, that, though he (as well as the duke of Marlborough) not only voted for a second reading, but also entered their dissent against the rejecting it; the party were exasperated against him, and set up the earl of Rochester, as the only man to be depended on, and who deserved to be the prime minister." Tindal.

* "The Bishops were almost equally divided. There were two more against the Bill than for it. Among these I had the largest share of censure on me, because I spoke much against it: I knew how the Act of Test was carried, as has been already shewn in its proper place; I related that in the House, and the many practices of the Papists, of setting us of the church against the dissenters, and the dissenters against us by turns, as it might serve their ends; I ventured to say, that a man might lawfully communicate with a church, that he thought had a worship and a doctrine uncorrupted, and yet communicate more frequently with a church, that he thought more perfect: I myself had communicated with the churches of Geneva and Holland; and yet at the same time communicated with the church of England; So, though the dissenters were in a mistake, as to their opinion, which was the more perfect church, yet allowing them a Toleration in that error, this practice might be justified. I was desired to print what I said upon that occasion, which drew many virulent pamphlets upon me, but I answered none of them; I saw the Jacobites designed to raise such a flame among us, as might make it scarce possible to carry on the war; these who went not so deep, yet designed to make a breach on the Toleration by gaining this point: And I was resolved never to be silent, when that should be brought into debate; For I have long looked on liberty of conscience, as one of the rights of human nature, antecedent to society, which no man, could give up, because it was not in his own power; And our Saviour's rule, of doing as we would be done by, seemed to be a very express decision to all men, who would lay the matter home to their own conscience, and judge as they would willingly be judged by others." Burnet.

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how well soever it may be intended by some, the effects of it will be quite contrary, I could not have a heart, or a face to speak against it, but should promote it with all possible zeal.—I confess, I am already bound up, as to this particular, and determined by a promise solemnly made to the queen. Her majesty recommended union to us, with a particular vehemence of style, when she said, she wanted words to express how earnestly she desired to see union and a good agreement among her subjects. I am sure, we must all want words to express a due sense of that royal tenderness and care of us. In our Address to her majesty we promised, not only to avoid, but to oppose every thing that might tend to create disunion and disorder: and I do freely own, that I had then this very thing in my thoughts, as I believe a great many others had, and therefore I look on myself as under an obligation now, to perform what I then promised. I know, some of our order, as well as myself, in particular, have been very indecently, and I hope, very unjustly too, treated in many printed libels upon this very account; as if we were the enemies to the church, because we cannot think this bill for its service. The station we are in sets us above the answering every spiteful writer. But, next to the queen, we owe it to your lordships to satisfy you, if any thing sticks with you. We hope we may appeal to the world, and to our dioceses in every particular, whether our labours do not shew a true zeal for the church, in all its concerns? We are the disciples of the cross, and must go through good report, and ill report; but we hope, we are so well known, and have acted so long in a public scene and have acted such a part on it, that we may reckon ourselves above such calumnies.—Even St. Paul said, he became a fool in glorying, but it was when others compelled him to it, we must freely own, that there have been such severities among us in every reign, since the reformation, that these are blemishes not easily wiped off. The burnings in king Edward's reign is the reproach of that time. The capital proceedings in queen Elizabeth's reign, and the severe act of the 25th year of it, that punishes meetings with imprisonment, banishment and death, is a blemish, even on that long and glorious reign. The repeal of that act past in both houses; and it is known by what management it was, that it was not tendered to the royal assent. The mention of queen Elizabeth's reign leads me to take notice of what has been said in relation to the maxims, by which she governed herself, as if she had been inflexibly steady in the observation of the laws in matters of religion. It is certain, that she treated the papists, all along, with very particular indulgence; she would have the peers excused from the obligations to take the oath of supremacy; she employed papists in all her affairs; they were privy counsellors, and lord lieutenants; her lord-treasurer protested against all acts for the reformation, and was known to be a church-papist, or an occasional conformist; and yet he continued in that great post 14 years, till he died; she encouraged the occasional conformity of papists, and apprehended no danger in that, even from them; and yet, I hope, it will be acknowledged that there was more reason to be afraid of them, considering both their numbers, and the hopes of a popish successor, than we have now to be afraid of the Dissenters. She encouraged occasional conformity, and no body was uneasy at it: but the Pope saw what it was like to end in, and therefore he took care to put a stop to it.—The severities in king James's reign cast a blot on it; and the proceedings in the Star-Chamber, and the High-Commission, are set forth by a noble Historian, as things that did not a little contribute to bring on us the miseries of a Civil War. The proceedings in king Charles the second's reign were severe, and set on with bad designs. That in a time, both of war and of plague, such an act as the Five-Mile act should have passed, will amaze all that know the secret of that time. Soon after the restoration, it had been a very easy thing to have made up all differences among us, but the design was to enflame them: and that matter was far driven, as we all know. The earl of Bristol called together a meeting of the chief of the papists, and tendered them an oath of secrecy, as the lord Stafford told me in the Tower, and told it likewise at the bar of the House; he told them, that the breach between the church and the Dissenters was now fixed, and would be carried further; it was therefore their interest to make use of all the provocations the Dissenters might meet with, and to offer their assistance to them, in order to the engaging them to petition for a general Toleration: yet they could never be brought to it. When the declaration for a general Toleration, in 1672, was questioned in parliament, which brought on the act of the Test, set forth in the preamble of this bill, the lord Clifford got some to move in favour of the Dissenters, hoping that would have provoked either the one side or the other, and that either the Church party might be offended with the motion, or the Dissenters with the refusing it. That was stopt by alderman Love, who desired, though his own persuasion was well known, that nothing with relation to them might intervene to stop the security, that the nation, and the Protestant religion would have by that act: in this he was seconded by most of that party, so that the act was obtained, in some measure, by their assistance, and therefore it would be hard to turn it against them; for the king was then highly offended with them, for the giving up his Declaration. This wrought so much on that House, that was so zealous for the Church, that they ordered a Bill to be brought in for the Ease of Protestant Dissenters, in which little progress was indeed made, yet to the end of that parliament the Conventicles were held very publicly, and they never passed a vote, or made an address against them. In the end of king Charles's reign we all remember that a

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new prosecution of them was sat on foot; and even then, when the severities against them were very hard, they were solicited by the agents of the court to petition for a general Toleration, but they could not be prevailed on. What some of them did in king James's reign is well known, and cannot be excused. By all this we see, that the whole management, with relation to Dissenters, was an artifice to advance a Popish interest, which must needs give a just jealousy of every thing that looks that way. After the late king had delivered us from all our fears and dangers, to whom (let ungrateful and malicious men treat his memory as they please) we owe our present happiness, and that we are now sitting here, his next care was to secure the Church of England by the Act of Toleration, which has not only set the Dissenters at ease, but has made the Church both stronger and safer, since God has so blessed our labours, that we see the Dissenters lose as much strength as we gain by it. The heat raised by those dissentions is much allayed, and their numbers are abated by a moderate computation at least a fourth part, if not a third. But now they are alarmed and begin to put on more zeal, for they apprehend the Toleration is aimed at, and that how little soever seems to be in this bill, it is a step, and will be followed by more, that are kept in reserve till this point is once gained. The next step may be for their wives and children, and so the matter may be carried on till the whole Toleration is broke through. If one picks at a great dyke that keeps out the sea, it will be thought, how small a breach soever he makes at first, that he designs a total inundation. This seems to weaken and shake the Toleration; so men will grow jealous, and be on their guard, and by this means we of the Church shall not have so free and unexcepted an access to work on their reasons, which we now do with so much success, when once their passions are kindled against us. The present state of our affairs makes this yet more unseasonable. It is a common maxim, followed even by persecutors, to keep things quiet at home, when nations are engaged in war; especially in such a war as this, which is for universal monarchy, where all is at stake. There may happen great accidents in war, and it is no way adviseable to raise discontents or apprehensions in great numbers, at home, which may come to have very ill effects, when we are in no good condition to deal with them.—I know somewhat of Foreign affairs: during the first six or seven years of the last reign, it was the common topic of the agents of France, in the courts of our allies, that England was so disjointed by factions at home, that there was no trusting to it; no doubt the same arts are now practised. Portugal and Savoy are two allies of the greatest consequence to us, who have no strength to resist the force that will be poured in upon them, but as they hope to be supported by the treasure, the fleet, and the assistance of England. Any thing that divides and weakens us must give them a melancholy prospect, and may make very dangerous impressions on them; whereas our union at home, and the maintaining the happy calm the nation is now in, will incline them to depend more firmly on our treaties with them.

"Some things give a just suspicion, when the men who promote them, and write for them without doors, are the known and avowed enemies of the government, who deny the queen's title, and are looking to one beyond sea. Can we think that those who separate from our churches, and have raised a schism in it, can be zealous for the peace and order of the church? They are zealous for somewhat else, and therefore we may well believe their zeal in this particular, is with a view to that to which they are driving. One author, who has writ two books in behalf of this bill, is known to be the furiousest Jacobite in England, and does not conceal it even in those books. In one of these he says, he is one called an high church-man. These are new terms of distinction, raised on design to distract us yet more. I know no high church, but the church of Rome; and that author L—— has in another book shewed us how near he comes to that Church, when he proposes, that a Treaty may be set on foot between our convocation, and the assembly of the Clergy of France; and that we should abate the regal supremacy, and they the papal, and then he fancies, all other matters could be easily adjusted: So here we see who are to be called High Church. Our legal establishment, founded upon the primitive pattern, is the true measure of our Church; and those who rise above it, are as much out of the way, as those who fall below it. But I knew one of the eminentest papists of the age, who used often to say, He was for the Church of England as by law established: I took the liberty to ask him how such a profession did agree with his sincerity? He answered, He looked upon the laws of queen Mary as yet in full force, for he thought queen Elizabeth, who repealed them, had no more right to the Crown than Oliver Cromwell had, so that her laws were no laws. I confess, ever since that time, I have been jealous when I hear some persons pretend so much zeal for the Church of England. The fury with which this matter is driven, does heighten the jealousy. What great matters could this bill produce, if there were not somewhat under it?—How comes it that our bench should be indecently treated, because we cannot all of us think it seasonable, and do not apprehend that we need it? We have, in the whole course of our lives, adhered to the interest of the church at all perils, and in all times, without ever once in any particular leaning to the Dissenters: and yet we, who have been our whole life long, by our labours and writings, building up the church, must now be defamed as the underminers, because we cannot comply with other mens notions. The head of our order is misrepresented with as much injustice as virulence, though he stood as in the front of the church in

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the most dangerous times; and false stories are made, and publicly reported of him. I love not to use harder words, but this could be the better borne, if it were not for the relations and dependencies of those who vent them. I myself have met with a large share of such treatment, though in no step or part of my life, I ever gave the least occasion for it. When I wrote the History of the Reformation, for which I had the thanks of this house, I was then under no bias; I had neither favour nor interest to tie me, so that I wrote purely what was my own sense of things; and yet I took care to mark all the first beginnings of nonconformity, all the grounds they went on, and all the colours that imposed on them, and have shewed the mistakes and weaknesses of every one of them with an honesty and zeal that ought to set me beyond suspicion. But I own I began the world on a principle of moderation, which I have carried down through my whole life, and in which I hope I shall continue to my life's end. There was a time when those who are now so furious, and perhaps so full of hopes, needed my service, and I had some credit, which for some years was chiefly employed in their behalf. Your lordships may remember with what vehemence I pleaded, for excusing the deprived bishops from the oaths. Others were then, and are now in great posts, who, I am confident, will do me the justice to own, that I was the common agent both for papists and jacobites in distress; for which we are now so ill rewarded. But now to speak to the title of the bill, Occasional Conformity, I cannot in the general condemn this, but as it is accompanied with error and mistake. For a particular instance, I myself was an Occasional Conformist in Geneva and Holland. I thought their churches were irregularly formed, under great defects in their constitution, yet I thought communion with them was lawful, for their worship was not corrupted; but at the same time I continued my communion with our own church, according to the Liturgy of this church, with all that came about me. And if the designs of some of the promoters of this bill should be brought about, and I driven beyond sea, (unless among other unpardonable people, I should be at first knocked on the head) I, in that case, would communicate with the foreign churches, but would likewise gather all of this church about me, and still continue to worship God, according to the Liturgy, to my life's end. So I think Occasional Conformity, with a less perfect church, may well consist with the continuing to worship God in a more perfect one. It remains then a point of opinion which church or society is the less perfect. In this I am sure our church is the more perfect and regular, and that the separation is founded upon error and mistake; and that true edification is among us, and not among them; but some of them by unhappy education, think otherwise, and in this they are certainly to blame, as they are in every part of the separation. But if it is intended to tolerate them under their other mistakes, I do not see why this should not be tolerated likewise, since it is much less dangerous than the other practices, which are not at present complained of.—The noble historian, whom ye are now all reading with pleasure, finds great fault with those who did not go to the French churches, even where they had an Ambassador's chapel to resort to, though this was certainly an Occasional Conformity with a less perfect church, where there was no obligation to go to it; and when they had a more perfect one at hand. It has been a topic insisted on by all who have writ against the Dissenters, from the first beginning of the disputes down to the present times; they have been always called on to come as near the church as they could, and to do all that they could do with a good conscience, and therefore, before the wars, great difference was made between the Puritans and the Brownists or separatists, on this very account; But now all that is reversed; the separatists are well looked on, whereas those who come much nearer us are discouraged, though we all see, that this is a step, by which many come over entirely to us, and the children of others do enter into a constant communion with us; and we shall go to cast a scandal on this to discourage it?—In my diocese, those who are Occasional Conformists out of principle, who sometimes go to church, and go sometimes to meetings, are without number; who yet have no office, and seem to pretend to none; I confess I do not desire to press it too hard upon them, that they may not do both, lest this, instead of keeping them from meetings, hinder them from coming to church. I have heard but of one in my diocese, who goes to meetings, and that is only to a weekly lecture.—Therefore, since Occasional Conformity is only to be blamed, when it goes upon an error and a mistaken principle, I do not see why it should be worse treated than the errors that are now tolerated, for it is, of all the errors, that which has done the greatest service to the church.—I now come to the bill itself: I miss a preamble here, that was in the former bill, in favour of Toleration, which is now left out; I confess I don't know how it came to be there; for it did not very well agree with the bill, especially as it was first sent up to us. It put me in mind of a clause in the sentence of the inquisitors; when a heretic is condemned, and delivered to the secular arm, they conjure the magistrate by the mercies of God, and the bowels of Jesus Christ, that no harm be done to the obstinate heretic, neither in life nor limb; but all this is but farce, for he is to be burnt immediately: Yet, after all, these words were a solemn declaration that could not have been forgot, if other matters had been afterwards offered at: They are now left out with great sincerity, no doubt, by those who do not intend to maintain the Toleration-Act; a very honest part when they will not profess it? I know it may be said, let us put in these words, and stand to them. But still this will not lay the apprehensions, that

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the leaving out these words must raise, as if the original design of this bill was to strike at the Toleration; and that therefore those who have contrived it, would not limit themselves by words of their own framing, so they may, to carry their point, consent to their being put in by others, to which they do only give way, which they will not think to be such a tye on them, as if they had, of one accord, put them in the first draught of the bill. There are other words in the preamble, that do not appear to me to be well grounded after the two acts, the Corporation-Act and the Test-Act are set forth. It is inferred, that it was intended, that all men comprehended in them should be, and always continue to be of the Communion of the church of England. By the first of these acts, no man could bear office in a corporation, unless he had received the Sacrament within three months after; so by the other, he who had a place of trust was to receive the Sacrament within three months after, so by these acts, it is very true, that no man might be in any employment, who either had not been, or was not then in the Communion of the church; but there is not a clause, nor a word in either of these acts, that imports, that he should always continue to be so. If the clause once offered had been received, obliging such persons to come to church once a month, and to receive the Sacrament once a year, when this intention should have been fairly declared: but, as it is, since no such clause appears, I don't see how, in a recital, we can affirm a thing that has no foundation, for how unlimited soever our enacting power may be, yet in a recital a thing must either be as it is set forth to be, or all the authority on earth cannot make it to be otherwise than it is. As for the enacting part, when in a proper time a bill shall be brought in, disabling all to hold any employment, but those who continue to be in the Communion of the church of England, I shall concur in it heartily; but for a fine of 50*l.* I cannot agree to it; that punishment goes further than disabling; I cannot agree to any such clause: Nor is it consistent with the Act of Toleration, to lay a heavy fine for going to a meeting tolerated by law: Nor can I consent to the reckoning the foreign churches tolerated among us, which are by name excepted in the Act of Uniformity, among the meetings of the separatists from our church. This will have a strange sound all the world over, and will be a mighty discouragement to all abroad, who expect deliverance and protection from hence, when they understand that it is made so criminal a thing to worship God with them, and according to their way: For these reasons, I think this bill ought not to be now entertained, but that the subject-matter of the bill ought to be left to be considered at a proper time."

Lord *Haversham* said:

"My lords; I am very little personally concerned in this bill; I have no office, I expect none, nor do I desire any; and yet I pay as much duty to her majesty, and wish as well to her government, as those that have half a dozen.—I shall not, my lords, enter into the consideration of the justice or injustice of this bill, whether a man may be deprived of what he has a legal right to, without any forfeiture on his part; though, in my opinion, he may; because private right is always to give place to public safety; and nothing else can justify one of the best bills that ever was made for the security of the Protestant Religion, I mean the Test-Act: But this is not the case here; the persons affected by this bill are such as have always been serviceable to the government, and are some of the best friends to it.—Nor shall I trouble your lordships to shew, that the great enemies of the State do not so much consider you as you are three different nations, but as you are an embodied people under one sovereign. Neither does the church of Rome so much oppose you, as considered under the notion of church of England, occasional conformist, or Dissenter; but as you are part of the northern heresy, as you deny the supremacy, infallibility, and assert the idolatry of their church: They have no more affection for any one of these persuasions, than for another, and equally design the ruin of us all.—But, my Lords, that which I shall strictly speak to, is the point of time in which this Bill visits you; and, in my opinion, it could never have come in a more unseasonable and more dangerous juncture: I hope your lordships will not think I wander from the subject of the debate, if I shew you a little the present posture of our affairs, as to many arguments, that at least will, I hope, justify me for giving my vote against a second reading of this bill.—First, my Lords, if we consider what a potent, what a vigilant adversary we have to struggle with, the French king, a prince whose designs are laid upon the greatest maturity of deliberation, carried on with the greatest secrecy, and executed with the greatest dispatch: There is no unsteadiness in his councils, his troops are never surprised, his designs are never betrayed, his attempts never disappointed by either the emulation, envy, or private piques of his great generals: He can bring his armies sooner into the field, and keep them longer there than we can; nay, can do more with a small part, after we are gone into winter-quarters, than we can with the main body of ours in a whole campaign, and that too, when they are commanded by a general that has retrieved the glory of the English nation. Sure, my Lords, all heads, all hearts, all hands, are little enough against such an enemy.—In the next place, my Lords, what heavy taxes lie upon us here at home, without any hope of ease, and very little expectation of advantage? The reason why men chearfully undergo such burthens, is because they expect some public advantage by them, or, at least, that they may enjoy the remainder with security: But, when they have no prospect from what is given, and are not secure of enjoying what is left, it will come very hard. We have, my Lords, given

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great sums the last year for the army; but what great matter have we done? For my own part, I think no man can reasonably expect more from what we are now raising this year, than to meet again next winter, and give more, and so on.—And as to our Navy, what a vast and fruitless expence have we been at? I confess to your lordships, when I consider these two heads, it puts me in mind of old Jacob's prophecy of his son Issachar, in the 29th chapter of Genesis; Issachar 'is a strong ass, couch-'ing under two burdens, he bowed his shoulders 'to bear, and became a servant to tribute.' I believe this prophecy has been fulfilled elsewhere.—Was there ever such an expedition undertaken as that into the Streights, last summer? I could never yet meet with that man who could give a reasonable account of it: Sure, no man will say that it was to carry on your trade; that was to put the nation to a million expence to carry out 3 or 400,000*l.* and make a kind of necessity of as much more to bring it home: Nor will any man, I think, own, that so great a force was sent thither to make the Italian princes declare for the Emperor, and then leave them to the mercy of the French: It is very true, so vast a fleet plainly shewed how formidable a power the confederates were by sea; but sure, it shewed also the weakness of our conduct, that knew so little what to do with it.—But there is one thing, my lords, that above all amazes me: every body knows, that the foundation of all our expectations and designs of placing the house of Austria on the throne of Spain, is laid on the assistance we expected from Portugal; we know too, by the manner of that prince's conduct and treatment with us, that no prince is governed more by interest. Why then was not a greater part of so vast a fleet left there to countenance or secure him? sure, it is unaccountable that he should have any just cause to apprehend himself either forgotten or neglected. No man knows what difficulties or delays may force him to.—A noble lord, with a white staff, gave it as a reason, who, though he was against the bringing in of this bill, yet, since it had passed another place, he was for it; because the not passing of it now, he feared, would create a great disturbance in our affairs; which I take to be a great reason against this bill: For it is very well known, the leading part of the nation are most concerned in it; and, if this bill should pass, the sad effects of it would soon be found in the Exchequer.—Besides all this, my lords, what great and irreparable losses have we had? The parliament may vote money, and money may build ships; but it is impossible to recover our seamen, nor is there any encouragement to them, or nursery for them.—There is one thing more, my lords, which I will at present but name; because, upon some other occasion I intend to speak more of that point. It may perhaps seem too big to be named, but I shall never think any thing so, that may prove dangerous to the crown or government: it is the extraordinary favour of one or two persons. A thing that has been very fatal to the royal family, and what has been may be. I will only in short say, when all the favour is bestowed upon one or two persons, when all the power by sea and land is either virtually or openly in one hand; when all the offices, like a set of locks, are commanded by one master key; I pray God it never may again prove fatal both to crown and country.—Give me leave only to recapitulate and say, whether your lordships consider the present posture of our affairs, either at home or abroad, by sea or land, in a court or camp, I can never think this a proper time for such a bill."

These two lords were supported by the duke of Devonshire, the earl of Peterborough, the lord Mohun, the lord Ferrers, and the lord Wharton. The last of these, to shew the unseasonableness of any thing that might seem to lead to persecution, took notice of the distracted state of Scotland, and of the insolence of the papists in Ireland; adding, they ought rather to imitate the parliament of the latter kingdom, in their zeal against popery, than to frame laws to increase their divisions here. And the lord Mohun, a peer eminently conspicuous for his parts, and his affection to the protestant succession, did not stick to say, that if they passed this bill, they had as good tack the pretended prince of Wales to it.

The Bill rejected.] Upon the whole matter, the bill, after a second reading, was rejected by a majority of 12 voices.

Abstract of the Occasional Conformity Bill.] As there is some difference, especially in the preamble, between this and the Bill of the preceding year, it will not be improper to insert an Abstract of it in this place:

"Whereas by an act made in the 13th year of the reign of king Charles 2, entitled, An Act for the well-governing and regulating of Corporations, it is, among other things therein contained, enacted, That from and after the 24th day of March, 1663, no person or persons should for ever be placed, elected, or chosen in or to any office or place of mayor, alderman, recorder, bailiff, town-clerk, common-councilman, or any office or offices of magistracy, or place, trust, or other employment relating to, or concerning the government of any city and corporation, within the kingdom of England, dominion of Wales, or town of Berwick upon Tweed, who should not within one year next before such election or choice, have taken the Sacrament of the Lord's Supper, according to the rites of the church of England; and in default thereof every such placing, election and choice, was thereby enacted and declared to be void.

"And whereas, by another Act made in the 25th year of the reign of the said king Charles 2, entitled, An Act for preventing dangers which may happen from popish recusants, it is enacted, among other things therein contained, That all persons, who should be admitted into any office, civil or military, after the first day of

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Easter term, in the year 1673, should receive the Sacrament of the Lord's Supper, according to the usage of the church of England, within three months after their admittance, in some public church, upon some Lord's day; and that all persons, who should neglect or refuse to take the Sacrament, as aforesaid, should be, *ipso facto*, adjudged incapable, and disabled in law to all intents and purposes whatsoever, to have or enjoy the said offices or employments. By which said several acts it was manifestly intended, that all persons to be admitted into such offices and employments should be, and always remain conformable to the church of England, as by law established; yet the said acts have been most notoriously and scandalously eluded by many Dissenters from the church of England, who have received the Sacrament of the Lord's Supper, in order only to have or retain such offices and employments, and to evade the penalties of the said laws, and have afterwards withdrawn themselves from the communion of the church of England, and resorted to conventicles for the exercise of religion, in other manner than according to the liturgy and practice of the church of England.

"For the preventing therefore such a scandalous and irreligious practice for the future, and the evil consequences thereof,

"Be it enacted, &c. That if any person or persons, after the 24th day of March, 1704, either peers or commoners, who have, or shall have any offices, civil or military, or shall have any command or place of trust, from under her majesty, her heirs or successors, or from any of her majesty's predecessors, within the kingdom of England, &c. or in the navy, or in the several islands of Jersey and Guernsey, or shall be admitted into any service or employment in the household or family of her majesty, her heirs or successors, or if any mayor, alderman, or other person, bearing any office of magistracy, or place, or trust, or other employment, relating to, or concerning the government of any of the respective cities, corporations, &c. who by the said recited acts, or either of them, were, or are obliged to receive the Sacrament of the Lord's Supper, according to the rites or usage of the church of England, shall at any time after their admission into their respective offices or employments, or after having such patent or grant, command or place, or trust, during their continuance in their offices or employments, knowingly or willingly resort to, or be present at any conventicle or meetings, under pretence of any exercise of religion, in other manner than according to the liturgy and practice of the church of England, in any place within the kingdom of England, &c. at which conventicle there shall be ten persons or more assembled together, shall forfeit 50*l.* to be recovered by him or them that shall sue for the same, by any action of debt, bill, plaint, or information, in any of her majesty's courts at Westminster; wherein no essoign, or protection, or wager of law shall be allowed, or any more than one imparlance."

"And be it further enacted, That every person convicted in any action, or upon any information, in any of her majesty's courts at Westminster, or at the assizes, shall be disabled from thenceforth to hold such office or employment, and shall be adjudged incapable to bear any office or employment whatsoever, within the kingdom of England, &c.

"Provided always, That if any persons, who shall have been convicted, and thereby made incapable to hold any office, shall, after such conviction, conform to the church of England for the space of one year, without having been present at any conventicle or meeting, and receive the Sacrament of the Lord's Supper, according to the rites and usage of the church of England, at least three times in the year, such persons shall be capable of the grant of any the offices or employments aforesaid.

"Provided also, and be it further enacted, That every such person so convicted, and afterwards conforming in manner aforesaid, shall at the next term after his admission into any such office or employment, make oath in writing in any of her majesty's Courts at Westminster, or at the next quarter-sessions for that county or place where he shall reside, that he has conformed to the church of England for the space of one year, before such his admission, and that he hath received the Sacrament of the Lord's Supper at least three times in the year, provided that no person shall suffer any punishment for any offence committed against this act, unless oath be made of such offence, before some judge or justice of the peace, within ten days after the said offence committed; and unless the said offender be prosecuted for the same within three months after the said offence committed; nor shall any person be committed for any such offence, unless upon the oaths of two credible witnesses at the least.

"Provided always, That this act, nor any thing therein contained, shall not extend, or be judged to take away, or make void any office of inheritance; nevertheless, so as such persons having or enjoying any such office of inheritance do, or shall substitute and appoint his sufficient deputy, to exercise the said office, until such time as such person having such office shall conform, as aforesaid."

List of the Lords who voted for and against the Bill.] The following is a List of the Lords spiritual and temporal, who voted for or against the Bill:

FOR THE BILL.

Lord Treasurer, earl of Godolphin; Lord President, earl of Pembroke; Lord Privy Seal, duke of Buckingham.

Dukes—Of Leeds, Bedford, Marlborough Captain General.

Earls—Of Jersey, Lord Chamberlain, Kent, Bridgewater, Northampton, Denbigh, Winchelsea, Carnarvon, Thanet, Scarsdale, Anglesea, Sussex, Nottingham, Secretary of State, Rochester, Abingdon, Plymouth.

Viscounts—Weymouth, De Longueville.

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Barons—La Warr, Chandois, Pawlet, Byron, Osborn, Dartmouth, Stawell, Guilford, Ashburnham, Barnard, Weston, Grenville, Guernsey.

Bishops—Of York, London, Winchester, Rochester, Chester, St. Asaph.

Proxies——Northumberland, Schomberg, Lindsey, Great Chamberlain, Exeter, Sandwich, bishop of Durham, bishop of Landaff, bishop of Exeter, Willoughby of Brooke, Maynard, Leigh, Craven, Lempster, Gower, Conway.—In all fifty nine.

AGAINST THE BILL.

Dukes—Of Devonshire, Lord Steward, Somerset, Master of the Horse, Richmond, Southampton, St. Albans, Bolton, Newcastle.

Earls—Of Derby, Leicester, Bolinbroke, Manchester, Rivers, Peterborough, Stamford, Sunderland, Essex, Feversham, Radnor, Berkley, Portland, Torrington, Scarborough, Bradford, Rumney, Orford.

Viscounts—Say and Seal, Townshend.

Barons—Abergavenny, Ferrers, Wharton, Paget, Howard of Escrick, and Grey of Wark, Lovelace, Mohun, Vaughan, Culpeper, Lucas, Rockingham, Berkeley, Cornwallis, Ossulstone, Herbert, Haversham, Somers, Hallifax.

Bishops—Of Canterbury, Worcester, Salisbury, Ely, Litchfield, Norwich, Peterborough, Lincoln, Chichester, Oxford, Bangor.

Proxies—Suffolk, Carlisle, Earl Marshal, Dorset, Burlington, Montague, Coventry, Fitzwalter, Eure, Willoughby of Parham, bishop of Hereford, bishop of Gloucester, bishop of Bristol. In all seventy one.

The question being carried for rejecting the Bill, the following peers entered their dissent; Godolphin, Rochester, Buckingham, La Warr, Thanet, Northampton, Marlborough, Winchelsea, Nottingham, Abingdon, Longueville, Weymouth, Guilford, Granville, Guernsey, Weston, Carnarvon, Carmarthen, Stawell, H. London, G. St. Asaph, Tho. Roffen. N. Cestrien.

Supplies granted.] Notwithstanding these differences, the Commons voted 40,000 men to act in conjunction with the Allies, 10,000 augmentation troops for the next year's service, 1704: and 7,000 foot, and 1,000 horse and dragoons for Portugal; And that 1,801,000*l.* be granted for these forces, guards and garrisons, and payments to the allies. Two days after, they voted 40,000 seamen, including 5,000 marines, for the sea service, 1704. Mr. Secretary Hedges acquainted the house, the 30th, that her majesty had been pleased to give this answer to their address about stopping all correspondence with France, 'That she 'thought the continuance of the stop of all 'post letters, trade, and all other correspondence with the enemies, so necessary for the 'public good, that she would forthwith give 'orders to her minister at the Hague, to insist 'upon it with the States General, as the Com-'mons desired.' The same day the house voted an Address to her majesty, assuring her, they would provide for the making good such alliances as her majesty had made, or should make, with the duke of Savoy.

Vote occasioned by the Great Storm.] Several men of war having been lost in the great storm* which happened about this time, they unanimously resolved, "That an Address be presented to her majesty, expressing the great sense the house had of the calamity fallen upon the kingdom by the late violent storm, and that they could not see any diminution of her majesty's navy, without making provision to repair the same: Wherefore they besought her majesty, that she would immediately give directions for repairing this loss, and for building such capital ships as her majesty should think fit; and to assure her majesty, that at their next meeting the House would effectually make good that expence; and would give dispatch in raising the supplies already voted, for making good her majesty's treaties with the king of Portugal, and all her majesty's other allies, and would consider of effectual ways for promoting of trade, for managing her majesty's navy royal, and for encouraging the seamen."

The Queen's Speech respecting the Scottish Plot.] Dec. 17. The queen came to the house of peers, and having passed the Land Tax bill, made the following speech to both Houses:

"My lords and gentlemen; I think it proper, upon this occasion, to acquaint you, that I have had unquestionable informations of very ill practices and designs carried on in Scotland,†

* "About the end of November the weather grew very boisterous, and broke out, on the 27th, in the most violent storm, both by sea and land, that had ever been known in the memory of man. The city of London was so shaken with it, that people were generally afraid of being buried in the ruins of their houses, some of which fell and crushed their masters to death. Great hurt was done in the southern parts of England, little happening in the north, where the storm was not so violent. The best part of our navy was then at sea, which filled all people with great apprehensions of an irreparable loss. And indeed, if the storm had not been at its height at full flood and in a spring tide, the loss might have proved fatal to the nation. It was so considerable, that fourteen or fifteen men of war were cast away, in which 1,500 seamen perished. Few merchant men were lost; such as were driven to sea were safe; some few only were overset. Our squadron, which was then in the Maese, suffered but little, and the ships were soon refitted, and ready to sail. The parliament being then sitting, the Commons, on this dismal occasion, presented an address to the queen, &c." Tindal.

† "The seasonable discovery about this time of the ill designs of the Jacobites and French emissaries in Scotland, justified the lord Wha-

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by emissaries from France; which might have proved extremely dangerous to the peace of these kingdoms, as you will see by the particulars, which shall be laid before you as soon as the several examinations relating to this matter can be fully perfected, and made public with-

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ton's taking notice, in his speech against the Occasional Conformity Bill, of the distracted state of that kingdom. The court of St. Germain's perceiving the divisions in Scotland, and the great opposition made in the parliament of that kingdom, had been encouraged to set all their agents there at work, in order to engage both the chief of the nobility, and the several tribes in the Highlands, to be ready to appear for them. Simon Frazer of Beaufort, lord Lovat, had gone through the Highlands the year before, and from thence went to France, where he pretended, that he had authority from the Highlanders to undertake to bring together a body of 12,000 men, if they might be assisted by some force, together with officers, arms, ammunition, and money, from France. After he had delivered this message to the queen at St. Germain's, she recommended him to the French ministers, of whom he had some audiences. He proposed, that 5,000 men should be sent from Dunkirk, to land near Dundee, with arms for 20,000 men; and that 500 should be sent from Brest, to seize on fort William, which commanded the great pass in the Highlands. The French hearkened to all this, but would not venture much upon slight grounds, and therefore sent him back, with some others, in whom they confided more, to see how much they might depend on, and what the strength of the Highlanders was. They were also ordered to try, whether any of the great nobility of that kingdom would engage in the design. When these came over, Frazer got himself secretly introduced to the duke of Queensberry, to whom he discovered all that had been already transacted; and undertook to discover the whole correspondence between St. Germain's and the Jacobites. He named also many of the lords, who opposed the duke most in parliament, and said, that they were already deeply engaged. The duke hearkened very willingly to all this, and gave him a pass to go through the Highlands again, where he found some were still very forward, but others were more reserved. At his return, he resolved to go back to France, and promised to make a more intire discovery. He put one letter into the duke of Queensberry's hands, from the queen at St. Germain's, directed on the back, but by another hand, to the marquis of Athol. The letter was writ in such general terms, that it might have been directed to any of the great nobility; and probably he, who was trusted with it, had power given him to direct it to any, to whom he found it would be most acceptable; for there was nothing in the letter, that was particular to any one person or family; it only mentioned the promises and assurances sent to her by that lord. This Frazer had been accused of a rape, committed on a sister of the marquis of Athol's, for which he was convicted and outlawed; so that it might be supposed, that he, to be revenged on the marquis, who prosecuted him for that crime, might put his name on the back of the letter. It is certain, that the others, who were more trusted than Frazer, and were sent over with him, avoided his company, so that he was not made acquainted with that proceeding. He came up to London in winter, and had some meetings with the practising Jacobites about the town, to whom he discovered his negotiation. He continued still to persuade the duke of Queensbury of his fidelity to him. His name was not told the queen; for, when the duke wrote to her an account of the discovery, he added, that, unless she commanded it, he had promised not to name the person, for he was to go back to St. Germain's to compleat the discovery. The queen did not ask his name, but had more regard to what he said, because, in the main, it agreed with the intelligence, that her ministers had from their spies at Paris. The duke of Queensberry procured a pass for him to go to Holland, but by another name, for he opened no part of this matter to the earl of Nottingham, who gave the pass. The Jacobites in London suspected Frazer's correspondence with the duke of Queensberry, and gave advertisement to the marquis of Athol, and by this means the whole matter broke out. About this time sir John Maclean, a papist, and head of that tribe or clan in the Highlands, and western isles of Scotland, came over from France in a little boat, and landed secretly at Folkstone in Kent. He brought his lady with him, though she had been delivered of a child but eleven days before. He was taken, and sent up to London; and it seemed, by all circumstances, that he came over upon some important design. He pretended, at first, that he came only to go through England into Scotland, to take the benefit of the queen's general pardon there. But, when he was told, that the pardon in Scotland was not a good warrant to come into England, and that it was high treason to come from France without a pass, he was not willing to expose himself to the severity of the law, and was prevailed upon to give an account of all that he knew concerning the negotiations between France and Scotland. Some others were at the same time taken up upon his information, and some upon suspicion. Amongst those there was one Keith, whose uncle was trusted by the court of St. Germain's, and whom they had sent over with Frazer, to bring them an account of the temper the Scots were in, upon which they might depend. Keith had been long at that court; he had free access both to that queen and the pretended prince of Wales, and hoped they would have made him under secretary for Scotland. For some time he denied, that he knew any thing; but afterwards he confessed, that he was made acquainted with Frazer's transactions, and he undertook to deal

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out prejudice: In the mean time, I make no doubt but, by this seasonable discovery, I shall be able to give such directions for our security, as will effectually prevent any ill consequences from these pernicious designs.—Gentlemen of the House of Commons; I am very sensible of your great readiness and affection for the public service, by presenting me so early in the sessions with a considerable part of your supplies. I depend entirely upon your continuing with the same zeal to dispatch the remainder of them, that so we may be prepared to give the speediest assistance to our allies, and to defeat the malicious designs of our enemies; who cannot be more industrious to contrive the ruin of this kingdom, and of the Protestant religion, than I shall always be vigilant and careful, both for their present preservation, and for their future security."

The Lords examine into the Plot, and Address the Queen thereon.] Upon which, the

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with his uncle, to come and discover all he knew, and pretended there was no other design among them, but to lay matters so, that the prince of Wales should reign after the queen. Ferguson offered himself to make great discoveries; he said, that Frazer was employed by the duke of Queensberry, to decoy some into a plot, which he had framed and intended to discover, as soon as he had drawn many into the guilt. He affirmed, that there was no plot among the Jacobites, who were glad to see one of the race of the Stuarts upon the throne; and they designed, when the state of the war might dispose the queen to a treaty with France, to get such terms given her, as king Stephen and king Henry 6, had, to reign during her life. When bishop Burnet heard this, he recollected what the marquis of Athol had said to him soon after the queen's accession to the crown; when, upon the bishop's saying, That he hoped none in Scotland thought of the prince of Wales; the marquis answered, He knew of none that thought of him, as long as the queen lived. The bishop replied, That, if any thought of him after that, he was sure the queen would live no longer, than till they thought their designs for him were well laid. But the marquis seemed to have no apprehension of that. The bishop immediately told the queen this, without naming the person; and she answered him very quick, There was no doubt of that. But, though the bishop could not but reflect often on that discourse, yet, since it was said to him in confidence, he never spoke of it to any one person, during all the enquiry that was now on foot. Ferguson, ever since he had left the place which had been given him at the Revolution, had been the boldest and most active man of the Jacobite party. He pretended, that he was now for High-Church, but many believed him a Papist. There was matter of treason sworn both against him and Keith, but there was only one witness to it.—At the same time Lindsey was taken up, who had been under-secretary, first to the earl of Melfort, and then to the earl of Middleton. He had carried over from France the letters and orders, that gave rise to the earl of Dundee's breaking out the year after the Revolution; and he had been much trusted at St. Germain's. He had a small estate in Scotland, and he pretended, that he took the benefit of the queen's pardon, and had gone to Scotland to save his estate; and, being secured by this pardon, he thought he might come from Scotland into England; but he could pretend no colour for his coming to England; and, therefore, it was not doubted, but that he came hither to manage their correspondence and intrigues. He pretended, that he knew of no designs against the queen and her government; and that the court of St. Germain's, and the earl of Middleton in particular, had no design against her. But, when he was shewed Frazer's commission to be a colonel, signed by the pretended king, and countersigned Middleton, he seemed amazed at it: He did not pretend it was a forgery, but he said, that things of that kind were never communicated to him.—At the same time that these were taken up, others were seized on the coast of Sussex. One of these, Boucher, was a chief officer in the duke of Berwick's family, who was then going to Spain; but it was suspected, that this was a blind to cover his going to Scotland.—During the height of the debates about the bill against Occasional Conformity, the earl of Scarborough produced a letter from his brother, acquainting him, that several suspected persons, retainers to the duke of Berwick, were come over and seized. Upon this the earl of Nottingham, secretary of state, told the House, 'That this matter was already be-'fore the queen, and would, in few days, be 'laid before both Houses.' Nevertheless, the majority of lords, either out of zeal for the safety of the queen's person and government, or because they did not think it prudent to leave the inquiry into so important an affair in the hands of a person, whose affection to the Revolution Settlement had been questioned, resolved to appoint a committee of seven of their own members to examine into it, and ordered, that sir John Maclean be brought to their house the next day. The Lord Steward having, on that day, acquainted the house, by her majesty's command, 'That the examina-'tion relating to sir John Maclean, was a mat-'ter of that nicety and great importance, that 'she thought it would be inconvenient to take 'it out of the method of examination it was 'now in, and that her majesty would, in a 'short time, communicate it to the house," their lordships acquiesced, and ordered the lords, with the white staves, to attend the queen, to desire her, that sir John Maclean might be committed to such safe custody, as that no person be permitted to speak to him without her leave, and that he neither write nor receive any letters or papers from any person, without the like permission from her majesty: Which was complied with." Tindal.

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Lords appointed a Select Committee, to take examinations, as to the Plot, and presented the following Address to her majesty;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, return our most humble acknowledgments to your majesty, for your gracious condescension, in promising to communicate to us those informations you have received of the ill practices of your majesty's and our enemies in Scotland; and we doubt not but the zeal this House has shewed, for having the persons secured, and their designs brought to light, has been very acceptable to your majesty: We rely upon your majesty, that you will give such directions as may effectually prevent all pernicious designs. And we trust in God Almighty's goodness, that that watchful providence, which has discovered the wicked Plot so seasonably, will likewise prosper all your majesty's counsels and good intentions. We reckon all our concerns, but chiefly the greatest of all, the Protestant religion, to be very safe under your majesty's tender care and wise administration; and we will, by our utmost zeal, maintain the rights of the crown and the church of England, in all such ways as may best answer your majesty's pious designs, and may most promote the good and happiness of all your subjects. We desire not to let our thoughts go beyond your majesty's person, to a future security, but as it is necessary for your majesty's preservation, as well as for settling the minds of all your good subjects; who look on the Protestant succession as your majesty's best security, as well as their own."

The Queen's Answer.] To this her majesty answered:

"My Lords; I am very glad to find that the communication I made to this parliament has been so acceptable to you.—I make no doubt of the zeal of the House of Lords; nor shall my own ever be wanting, to secure my people from dangers, to promote their good and happiness, to establish the church of England and the Protestant sucession to all posterity."

The Commons' Address thereon.] The Address of the Commons was as follows:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons, in parliament assembled, do return your majesty our most humble and hearty thanks, for your most gracious speech from the throne.—We are truly sensible of your majesty's great goodness, and of the confidence you repose in us, by communicating the discovery of the ill practices and designs that have been carried on in Scotland, by emissaries from France; whereby we have an opportunity to repeat our unanimous resolutions to stand by, and support your majesty, and the succession in the Protestant line, as limited by law, against all pretenders, and all your majesty's enemies whatsoever.—We want words to express to your majesty, the detestation we have any conspiracies and attempts, to disturb the peace and prosperity of your happy government; under which, we must think our security sufficiently provided for, since your majesty has been pleased to give such directions, as may prevent all ill-consequences from them.—It is a great satisfaction to us, to find that the supplies we have already given, are so acceptable to your majesty: We shall go on with the same readiness and zeal to dispatch the remainder of them, that we may enable your majesty to give the speedier assistance to your allies, and to defeat the malicious designs of your enemies.—Your faithful Commons can never have the least distrust of your majesty's vigilance and care, for the preservation of the Protestant interest in general, of the monarchy, and the church of England, as by law established: And we humbly beg leave to assure your majesty, that we will never be discouraged, but will continue incessant in our endeavours, by all proper methods, to transmit them securely settled to posterity."

The Queen's Answer.] Her majesty gave this answer:

"Gentlemen; I am very well pleased with your assurances of dispatching the supplies, and with the other parts of this address, in which you express so much duty and readiness to support, and to trust me.—You may depend upon my willingness to join my endeavours with you, in securing to posterity the Protestant succession, in the monarchy, and the church of England, as it is established by law."

Dispute between the two Houses concerning the Scottish Plot.] Dec. 20. Mr. St John reported, that the members appointed to search the Lords' Journals, as to their proceedings in relation to the Examination of any persons, who are discovered to have a Design against her majesty's government, had searched the Lords' Journals accordingly: and he read in his place what they had found therein, and delivered the same in at the table; where the same was again read.

A motion being made, and the question being proposed, That an humble Address be presented to her majesty, setting forth the great concern this House hath for her majesty's royal prerogative, and the resolution of this House to support the same; and that no persons accused for crimes, who are her majesty's prisoners, ought to be taken out of the custody of the crown, without her majesty's leave: and a debate arising in the house thereupon:

And a motion being made, and the question being put, that the debate be adjourned? it passed in the negative.

Then the main question being put; Resolved, "That an humble Address be presented to her majesty, setting forth the great concern this house hath for her majesty's royal prerogative, and the Resolution of this House to support the same; and that no persons accused for crimes, who are her majesty's prisoners, ought to be taken out of the custody of the crown, without her majesty's leave."

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The Second Address of the Commons.] Dec. 23. Mr. St. John reported, from the committee to whom it was referred to draw up an Address upon the Resolutions of yesterday, that they had drawn up an Address accordingly, which they had directed him to report to the house; which he read in his place, and afterwards delivered in at the table, where the same was read, and agreed unto by the House, as follows;

"Most gracious sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of England, in parliament assembled, beg leave humbly to lay before your majesty the great and just concern we are under, to see any violation of your royal prerogative.—Your faithful Commons believe the administration of the government best secured, when it is left to your majesty, with whom the law has entrusted it; and have so firm a dependence upon your majesty's affection to your people, and your great wisdom, that they can never apprehend so little danger from any conspiracy, as when the examination thereof is under your majesty's directions.—We are therefore surprized to find, that when several persons, suspected of treasonable practices against your majesty, were taken into custody by your messengers, in order to be examined; the Lords, in violation of the known laws of the land, have wrested them out of your majesty's hands, and without your majesty's leave or knowledge, in a most extraordinary manner, taken the examination of them solely to themselves; whereby a due enquiry into the evil practices and designs against your majesty's person and government, may in a great measure be obstructed.—Your loyal Commons do therefore most earnestly desire your majesty, to suffer no diminution of that prerogative, which, during your majesty's reign, they are confident will always be exerted for the good of your people.—And we humbly beg leave to assure your majesty, that as we are resolved, by timely and effectual supplies, to enable your majesty to carry on the war, which you have so gloriously begun; so we will, to the utmost of our power, support your majesty in the exercise of your just prerogative at home, and the asserting of it against all invasions whatsoever."

The Queen's Answer.] January 3, 1704. To this Address the queen answered:

"Gentlemen; I have had the satisfaction to find, that the matter which may have occasioned this address, is now at an end.—I return you many thanks for the concern you express for my prerogative; and for your repeated assurances of making the supplies effectual, which will be greatly for the honour and advantage of the kingdom.—I shall be careful not to give way to any invasion of the prerogative of the crown, or of the rights and liberties of the people."

The Lords declare their Right to examine Persons, and order them into Custody, and that the Address of the Commons is unparliamentary, &c.] Jan. 14. The Lords came to the following Resolutions:

"1. It is resolved and declared, by the Lords spiritual and temporal in parliament assembled, that, by the known laws and custom of parliament, this House hath an undoubted right to order persons, so to be examined, to be taken into the custody of her majesty's sworn officers attending this house, during such examination; or to commit them to any other safe custody that they shall think proper; and to restrain others, if they see cause, from having access to, or communication with them.

"2. It is resolved and declared, by the Lords spiritual and temporal in parliament assembled, that the Address of the House of Commons, presented to her majesty the 23rd of December last, is unparliamentary, groundless, and without precedent, and highly injurious to the House of Peers, tending to interrupt a good correspondence between the two houses, and to create an ill opinion in her majesty of this House, and of dangerous consequence to the liberties of the people, the privilege of parliament, and constitution of this kingdom."

Representation of the Lords to the Queen, concerning the Address of the Commons complaining of the Lords examining Conspirators, &c.] Jan. 17. Upon the last Address of the Commons, the Lords drew up the following Representation:*

"May it please your most excellent ma-

* "The Address of the Commons against the Lords was a proceeding without a precedent: the parliamentary method was, when one House was offended with any thing done in the other, conferences were demanded, in which matters were freely debated. But to begin an appeal to the throne was new, and might be managed by an ill-designing prince, so as to end in the subversion of the whole constitution. And it was an amazing thing, to see an House of Commons affirm, in so public a manner, and so positively, that the Lords taking criminals into their own custody, in order to an examination, was without warrant or precedent, when there was so many instances fresh in every man's memory, especially since the time of the Popish plot, of precedents in both Houses, that went much farther, of which a full search had been made, and a long list of them read in the house of Lords. That did not a little confound those among them, who were believed to be in a secret correspondence with the House of Commons; they were forced to confess, that they saw the Lords had clear precedents to justify them in what they had done, of which they were in great doubt before. It seemed surprizing to many, that the Commons, whose proper province it is to take care of the liberties of the subject, should now appear such zealous assertors of the royal prerogative, in opposition to the house of Lords,

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jesty; We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, find ourselves under an unhappy necessity of making this our humble application to the throne, upon occasion of an Address presented to your majesty, by the House of Commons, the 23d day of December last, and since that time published to the whole nation in print; by which the House of Lords is charged with the violation of your royal prerogative, and of the known laws of the land; with wresting persons suspected of treasonable practices, and taken into custody by messengers, out of your majesty's hands without your leave or knowledge, and in a most extraordinary manner taking the examination of them solely to themselves; whereby a due enquiry into the evil practices and designs against your majesty's person and government, might in great measure be obstructed. And they conclude their Address, by most earnestly desiring your majesty to suffer no diminution of your prerogative, and promise to support you in the asserting it against all invasions whatsoever. It is not possible for us to remain silent under this heavy charge, so unjustly, and, without the least ground or colour, endeavoured to be fixed upon the whole body of the peers; which tending directly to create an ill opinion of us in your majesty, puts us under an inevitable necessity, of vindicating both the legality and dutiful manner of our proceeding.

"The expressions in the Address of the House of Commons are so very harsh and indecent, that we may truly affirm the like were never used of the House of Peers, in any age, not even by that assembly, which, under the name of the House of Commons, took upon them not only to abolish the House of Lords, but to destroy the monarchy. We shall carefully avoid making returns of that kind: we consider too much what we owe to ourselves; and we know too well the profound respect due to your royal person, to let any provocation transport us so, as to use words unfit to be offered by us to our sovereign.

"The matter of this Address is no less injurious to us than the terms. There was not the least occasion for a just objection to any part of our conduct in that business to which the Address relates; the proceeding was strictly justifiable by the known laws and customs of parliament, it was carried on with the utmost respect to your majesty, and with true zeal for the safety of your person and government; all that was done was agreed to by the concurrent opinion of the House, without the least objection from any of our members, who have the honour of serving your majesty in your great offices and employments.

"We humbly represent to your majesty, that, by the known laws and custom of parliaments, the House of Peers has an undoubted right, in cases where they conceive it to be for the good and safety of your majesty and the kingdom, to take examinations of persons

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who are the natural defenders of it. But this was entirely owing to a party-pique; the Tories, or High-Church-party, who were the strongest in the House of Commons, laying hold of all opportunities, both to ingratiate themselves with the queen, and to oppose the Whigs, who had the majority in the House of Lords. Besides, the Tories received no small encouragement from some persons in high stations, who were ready enough to countenance those who endeavoured to stifle the Scots conspiracy, which made the Whig Lords the more eager to examine into it.—The House of Lords highly resented the reflection cast upon them by the Commons in this Address; and therefore, to vindicate their honour, and assert their privileges, they declared, "That, by the known laws and customs of parliaments, they had an undoubted right, whenever they conceive it to be for the safety of her majesty and the kingdom, to take examinations of persons charged with criminal matters, whether they be in custody or not; and to order, that persons to be examined be taken into custody of her majesty's sworn officer attending their house." And four days after, they resolved, "That the Address of the Commons is unparliamentary, groundless, without precedent, and highly injurious to the House of Peers, tending to interrupt the good correspondence between the two Houses, and create an ill opinion in her majesty of the House of Peers, and of dangerous consequence to the liberties of the people, the constitution of the kingdom, and privileges of parliament." This done, they presented, the next day, a Representation to the queen, in which they complained of the ill usage they had met with from the House of Commons: they used none of those hard words, that were in the Address made against them by the House of Commons, yet they justified every step they had taken, as founded on the law and practice of parliament, and no way contrary to the duty and respect they owed to the queen. The behaviour of the Commons was such, on this occasion, as if they had no mind that plots should be narrowly looked into. No house of parliament, and indeed no court of judicature, did examine any person, without taking him into their own custody during such examination; and, if a person's being in custody must restrain an house of parliament from examining him, here was a maxim laid down, by which bad ministers might cover themselves from an enquiry into their ill practices, only by taking the persons, who could make discoveries, into custody. The Lords also set forth the ill consequences that might follow upon one house of parliament carrying their complaints of another to the throne, without taking first the proper method of conferences. This representation was drawn with the utmost force, as well as beauty and decency of stile, and was reckoned one of the best pieces of its kind, that were in all the records of parliament." Tindal.

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charged with criminal matters, whether such persons be then in custody or not, and also to order the persons so to be examined, to be taken into custody of your majesty's sworn officers attending the House, during such examination, or to commit them to any other safe custody that they shall think proper; and to restrain others, if they see cause, from having access to, or communication with them: the House of Lords has exercised this right from time to time, as occasions have required, without objection. Our records are filled with precedents which warrant our claim in every part of it, and we presume to affirm to your majesty, that the drawing this right into question at any time, cannot but be of dangerous consequence to the liberties and safety of the people, and to the constitution of the government, as tending to avoid, or render in great measure ineffectual the enquiries of parliaments, which are so absolutely necessary, especially where many and great persons are engaged in dangerous designs against the government; or where ill ministers abuse their favour towards the oppressing or enslaving of the people. Your majesty's wisdom and goodness make us secure at present against all influences of that kind, and we unanimously and heartily pray we may long enjoy the blessing of your reign. But if it happens in future times, that ill men should gain too great a degree of favour with our princes; how easy will it be for them to stifle or defeat all parliamentary enquiries into their crimes; for if the being in prison, or in the hands of a messenger, will protect men from being examined in the House of Lords, or from being put into the custody of the proper officers of the House during the examination, and debarred from conversing with others; it will certainly be always in the power of favourites to cause those who can be witnesses against them, as well as the accomplices of their designs, to be taken into custody. And if persons in custody are out of the reach of the House of Lords, who are the hereditary counsellors of the crown, and in whom a judicial power is lodged by the constitution, it is not to be imagined that the Commons can pretend to a greater power of examining, committing, or restraining them.

"No House of Commons till now has given countenance to this dangerous opinion, which does so directly tend to the rendering ill ministers safe from the examination of parliaments, and we are persuaded no House of Commons hereafter will assert such a notion, because they are not wont easily to part with a power they have assumed; and it is certain, that they have several times taken upon them to exercise an authority like that which they have so severely reflected on in their Address.

"This consideration gave us the greater astonishment, to find our proceeding represented in the strange terms of wresting prisoners out of your majesty's hands, and taking the examination of them solely to ourselves. We believe the ordering persons to be examined in that high court, where your majesty is always present in consideration of law, and in that great council where you may be present in your royal person, as often as you please, will never be thought an exclusion of your majesty from the examinations, if that was intended to be insinuated by saying, we had taken the examinations solely to ourselves. Having thus laid before your majesty what it is we claim, and must insist on, as the indisputable right of the House of Peers, which was never thought, in the time of your royal ancestors, to be prejudicial to the just prerogatives of the crown, and which is manifestly necessary for the securing the liberties of your people, whereof we are assured your majesty will have an equal care, we humbly beg leave to lay before you a short state of the particular matter of fact relating to these prisoners; not doubting, but when the whole proceeding is known to your majesty, it will be approved not only as lawful, but every way respectful to your majesty.

"On Tuesday the 14th of December, the House of Lords was informed, that several persons had been seized by the custom house officers on the coast of Sussex as they came from France; and that amongst them there was one Boucher, who was capable of making considerable discoveries, having been in arms in the French service for many years, and gentleman of the horse, and aid de camp to the late duke of Berwick, who stands attainted of high treason, and who had been secretly in England several times before; that it was probable, if he was strictly examined, he might be brought to confess, since he saw his life in apparent danger; but that he was a bold man and likely to attempt an escape on that very account, if he was not carefully looked after, and the House was also told, that there was a general remissness both in the taking, searching and looking to such prisoners, which did afterwards appear very evidently in the examinations that were taken. Upon this information the earl of Nottingham, your majesty's principal secretary of state, acquainted the house that he had not heard of Boucher's name particularly, but had sent messengers to bring one Ogilby, and the other prisoners who had been apprehended by the custom house officers to town; and that he believed the messengers would do their duty, but he would not be answerable for them.

"After this account of the prisoners, and of what had been done in order to secure them, the House thought themselves obliged in duty to your majesty, and for the public safety, at a time when the kingdom is engaged in an open war with France, and that there are too just grounds to apprehend the dangerous practices of French emissaries, to make an humble Address to your majesty, that particular care might be taken for securing the person of Boucher, and of those who were taken with him, and that none might be suffered to speak with them till they were examined.

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"The next day your majesty's gracious Answer to this Address was reported to the House, that care had been taken to secure the prisoners, and that your majesty would give orders that nobody should speak with them till they were examined. Thereupon the Lords entered into a farther consideration of the importance of this matter, and, conceiving nothing to be more likely to bring prisoners, who had forfeited their lives, to a full discovery of the truth, than to find themselves under the enquiry of a parliament, they thought it would be of public service, for them to take examinations of these persons; and accordingly an order was made that no persons should speak with the prisoners, till they had appeared at the bar of the House.

"On the 16th day, the earl of Nottingham informing the House of Lords, that the prisoners were brought to town; the usher of the black rod was ordered to take them into his custody, in order to their examination, and to keep them separate, and in close custody, (as your majesty had before directed) and it being thought most proper, from the nature of the thing, that the examination should be by a committee of Lords, rather than by the whole House, it was resolved accordingly.

"We beg leave to mention to your majesty a matter of fact which satisfied the Lords, that their resolution to take the examinations of Boucher, and the persons apprehended with him, was neither unknown not disagreeable to your majesty: on the same day when that was ordered, being the 15th of December, the Lords resolved to examine sir John Maclean, a very dangerous person, as was represented to the House, who then stood committed in the hands of a messenger; and for that purpose ordered him to be brought to the House the next day, having, as they then thought, very good grounds to believe it might prove of great service to your majesty. Sir John Maclean was brought to the House according to the order, but your majesty being pleased so far to take notice of this order, as to signify to the House by the lord steward, that sir John Maclean had been in part examined already, and that your majesty thought it not proper to have that business taken out of the way of examination it was then in, but that your majesty would in a short time communicate it to the House; the Lords immediately acquiesced in your majesty's opinion, and sent back sir John Maclean to the place from whence he was brought. It was with this disposition of mind the Lords acted in the whole matter; and if your majesty, who no doubt had the same notice of both orders, had thought any other method of the examination of Boucher, and the persons taken with him, more proper than of the Lords; they had reason to conclude your majesty would have intimated it at the same time, and most certainly, the House would have had a like deference for your royal judgment in that instance also.

"The Lords committees appointed to examine the prisoners, proceeded with all possible dispatch, and made their report to the House on the 21st of December. Upon consideration of the report, the House found it requisite to commit Boucher to the prison of Newgate for high-treason, and the Lords committees having submitted to the judgment of the House, whether several parts of the examinations referred to in their report, should be laid open to the House, or put into any other way of being farther enquired into, or prosecuted; the House, out of a full assurance they had, that when the matter of fact should be laid before your majesty, you would certainly give such orders thereupon as were every way suitable to your royal prudence, and tender care of the public safety, did unanimously resolve, without so much as suffering those parts of the report to be laid open to the House, that an humble Address should be made from the House to your majesty, by the Lord Steward, and the duke of Somerset, (two of the Lords committees to whom the examination had been referred) laying before your majesty the whole report, with all matters relating thereto, and humbly desiring your majesty to give order, that Boucher should be prosecuted by Mr. Attorney-General for high-treason, and that as to the commitment, prosecution or discharge of the other prisoners mentioned in the report, you would be pleased to give such directions as should seem most proper to your royal wisdom. Thus, that as the whole affair was entered upon out of zeal for your majesty's preservation, and the safety of the kingdom, and was carried on and concluded with all possible respect to you; so we had the comfort to rest assured, that our behaviour was no less graciously accepted by your majesty, from the Answer you were pleased to make, the same day, to our last Address on this subject, and which was reported to us on the 22d of December, by the duke of Somerset, whereby your majesty was pleased to signify to the House, with your accustomed goodness, that you would give order for every thing as the Lords had desired.

"Madam; this is a true and just account of our proceedings, which have been so strangely misrepresented, and to which no exception can possibly be taken, by any persons rightly informed. For, as we had your royal approbation of all that was done; so the House of Commons could have had no pretence of objection, if they had taken the usual parliamentary methods of desiring to be informed of what we had done, and of the grounds of our proceedings, before they had approached your majesty with such a representation of them.

"Their carrying this unprecedented Address to your majesty, in so hasty a manner, gives us almost as great trouble as the hard usage we find in it.

"The ancient, known, and indeed only effectual method of preserving a good correspondence between the two Houses of parliament, has been by Conferences. If, at any time, ei-

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ther House conceived they had a reasonable ground to object against the proceedings of the other, conferences have been desired, and the matter in debate between them fairly discussed; and thereby, mistakes have been declared for the most part, and a good understanding cultivated, and a mutual respect preserved, which is always highly requisite, in the nature of our constitution, but more especially necessary in this time of war and danger.

"Had the House of Commons thought fit to have pursued this method upon this occasion, we should have been able to have given them entire satisfaction, not only of the lawfulness of all we had done, but of the just and weighty ground upon which we took the examinations of these persons into our own hands: or at least, if they could have convinced us of any mistake, we should have given them any reasonable satisfaction.

"But, without making any such previous step, the House of Commons have made an appeal directly to the throne, against the House of Lords, and charged them, though most unjustly, with attempts of the highest nature. Nothing like this was ever done before, and out of our hearty concern for the preservation of our happy constitution, we hope the same thing will never be done again. We know your royal heart is unmoveably fixed on the preserving the liberties of your people, and transmitting them entire to posterity; but if, in after times, the houses of parliament should be appealing against one another to the crown, (for, if such a course be justifiable in the House of Commons, the same method may be taken by the Lords) as your majesty is now sensible how great difficulties it necessarily brings upon a good prince; so it is easy to foresee (and we cannot think of it without terror,) how fatal the consequences may be, in the reign of an ill-designing prince, and what advantages may be taken from it, for utterly subverting the best ordered form of government in the world. There are examples abroad, where proceedings of this kind have ended in the overthrow of the liberties of the people, which makes us the more apprehend the beginning of them among ourselves. Your majesty's great judgment cannot but readily discern, whither it does naturally tend, for one House of parliament to be exciting, and earnestly desiring the sovereign to exert a real or supposed prerogative against the other House. It is not easy to imagine what the Commons could expect of your majesty from such an application: the Lords have never entertained a thought of using this dangerous method, whatever occasions may have been given within the compass of late years; and we promise your majesty, we will always endeavour to preserve a good understanding with the House of Commons, and shall never think it too dear to procure that union at any rate, unless that of delivering up those rights and powers which are lodged in us by the law, and without which, the constitution cannot subsist.

"We shall never be guilty of the presumption of prescribing to your majesty, when, or against whom you should exert your prerogative; but we will be aways ready to assist you in the support of all the just rights of the crown, as well as in the maintaining the liberties of the subject, which we know are no less dear to your majesty.

"It may, with modesty and truth, be affirmed that the Lords have, in all times, been the surest and most natural bulwark of the prerogatives of the crown, they being (as your royal grandfather, of ever blessed memory, was pleased to express it) an excellent screen and bank between the prince and the people, to assist each against any encroachment of the other.

"We will never contribute, by any act of ours, to the diminution of the rights of the crown, nor, as far as we are able, will suffer it in others. We cannot act otherwise without hurting ourselves in the highest degree, being thoroughly convinced, that the preservation of the legal prerogative is not only the surest way to secure our own privileges, but of absolute necessity for the happy and rightful administration of the government. And we hope the House of Commons will, in all times to come, speak and act with that regard to the prerogative which they seem to have taken up lately.

"There remains one particular more, which we will only name to your majesty, because we rest satisfied it cannot have weight any where; that is, the insinuation in the Address, as if the examination of these prisoners, by the Lords, was in order to obstruct the enquiry into the designs against your majesty's person and government; or at least, that it was likely to produce such an effect. Our dutiful zeal for your majesty's government, and our warm concern to discover all designs and oppose all practices against it, are too well known to the world, that any suggestions of that sort should make the least impression to our disadvantage; and we are very sure it was no suspicion of that nature which gave the true rise to this very sharp Address. It is easy to determine, whether a hearty and forward undertaking to search into the designs of your enemies, or the seeking occasions to object to, and interrupt such endeavours, be most likely to obstruct the discovery of the pernicious practices of traitors.

"Most gracious sovereign; we most humbly ask pardon for presuming to give your majesty the trouble of this long representation, which has proceeded from the passionate concern we have to stand, not only acquitted, but entirely approved in the judgment of so excellent a queen, and so justly beloved of all her subjects.

"We depend upon your justice, as well as your goodness, that nothing can do us prejudice, (from whatsoever hands it comes) in your royal opinion, while we continue to act in that station where we are placed by the form of the English government, according to the laws

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and customs of parliament, with all imaginable respect and duty to yourself, and all possible zeal for the safety and happiness of your kingdom.

"Give us leave to conclude this our humble Address with this firm promise, that no danger, no reproaches, nor any artifices whatsoever, shall deter or divert us from using our utmost endeavours, from time to time, in discovering and opposing all contrivances and attempts against your royal person and government, and the Protestant succession as by law established."

The Queen's Answer.] Her majesty's Answer to this Representation was:

"My Lords; I am very sorry for any misunderstandings that happen between the two Houses of parliament, which are so inconvenient for the public service, and so uneasy to me, that I cannot but take notice, with satisfaction, of the assurances you give me, that you will carefully avoid all occasions of them.—I thank you for the concern you express for the rights of the crown, and for my prerogative; which I shall never exert so willingly as for the good of my subjects, and the protection of their liberties."

The Commons' Address, in answer to the Representation of the Lords.] Jan. 22. The Commons ordered, that some of their members be appointed to search the Journals of the House of Lords, touching their proceedings upon the late Address of this House to her majesty, and their Representation thereupon; and also to search precedents concerning commitments by the House of Lords, in cases were the person has been in the custody of the crown, and report the same to the House: and several members were appointed accordingly.

Feb. 3. The said Report of the Journal of the House of Lords, relating to the Address of this House, and the Representation of the House of Lords, was read.

Resolved, That an humble Address be presented to her majesty, to clear this house from the misrepresentation of the house of Lords, in their Representation presented to her majesty; which said Address was conceived in the following terms:

"Most gracious sovereign; your majesty having with great goodness, declared from the Throne to your parliament, that divers ill practices and designs had been carried on in Scotland, by emissaries from France, which might have proved extremely dangerous to the peace of these kingdoms; and that you would lay the particulars before your parliament, as soon as the several examinations could be fully perfected and made public, without prejudice; we, your majesty's most dutiful and loyal Commons, resting secure and satisfied in your majesty's great wisdom and care, most thankfully acknowledge the confidence you have been pleased to repose in us.—But finding upon the Lords' Journals, that their lordships, the very same day, made two orders, one to remove your majesty's prisoners out of your custody into their own, and the other to commit their examination solely to a committee of seven Lords, chosen and appointed by themselves; by which your majesty seemed excluded from any power over the said prisoners:—Your loyal Commons, justly sensible of the dangerous consequences of such proceedings, thought themselves obliged to declare their concern at this violation of your royal prerogative, and the known laws of the land, in an humble Address presented to your majesty.—Your faithful Commons are well assured, when this matter comes to be rightly stated and understood, a zeal so well intended, and so well grounded, will rather be imputed to them as meritorious than liable to exception; and therefore, since their humble Address has been so artfully misrepresented by the Lords in their late Representation, presented to your majesty on Tuesday, the 18th of January, and published and spread with unusual industry through all parts of the kingdom, they look upon themselves under an indispensible necessity of appearing before your majesty in their own justification.—Their lordships think fit to take offence at the manner and words of our Address, and accompany this exception with reflexions and insinuations, more harsh and more odious than the most opprobrious language: but, as we made use of no terms but what were suitable to the occasion, so it will appear by precedents, that the same have been frequently and reciprocally used by both Houses to each other; nor could the Commons, in respect to your majesty, assert your royal prerogative, in words of less force than those in which they have vindicated their own privileges.—Whatever expressions our zeal for your majesty, and the public, might have inspired, we could never have offered to our sovereign so ungrateful a remembrance as the destruction of the monarchy, by a detestable assembly, composed of members of both houses, who being alike partakers in the guilt, ought equally to share the reproach.—With much more reason might we observe, both on behalf of your majesty and the Commons, that their lordships, not contented with preferring their own examinations to yours, not contented with excluding your majesty and the Commons, to whom parliamentary enquiries most properly belong, do appropriate to their House only, even in their application to their sovereign, the name of a parliament; an instance not to be paralleled, unless by that very assembly that subverted the monarchy.—It is not the question at present, as stated by the Lords, whether their lordships have a power of taking into custody, while under examination, persons accused of criminal matters, cognizable in parliament? but, that their lordships have a right to take the prisoners of the crown, and the examination of them, solely into their own hands, without your majesty's consent, and in such a manner as must necessarily prove an exclusion to your majesty, and this house, is the proposition your Commons deny, and for

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which their lordships have produced no precedent.—This unhappy occasion has been, at the same time, accompanied with the most surprizing instances of contradiction, and counter-orders to your majesty, both preceding and subsequent to it, but especially on the 29th of January last, when your majesty, with your accustomed goodness, communicated to the Lords the papers relating to the Scotch conspiracy, with an exception only of some matters not yet proper to be made public, without preventing a further discovery of secrets of greater importance, with which your majesty assured their lordships they should also be acquainted, as soon as it could be done without prejudice. However their lordships, upon what provocation, or for what reason no where appears, immediately addressed your majesty, pressing you to lay before them the whole matter, with all papers relating thereunto; by which your majesty was put under a necessity, either to give their lordships a refusal, or to comply with their unexpected importunity, to the endangering the public service. These proceedings, so extraordinary in their nature and in their manner, could not but sensibly affect your faithful Commons, whose earnest desire it is to see both your houses of parliament, and the whole body of your people, entirely agreed to pay the deference due to your majesty's wisdom, to confide in your care, and to promote and maintain your honour and dignity.—Their lordships, not satisfied with assuming this unprecedented power, have endeavoured, with a great deal of art, to persuade your majesty of the necessity of it, to prevent the designs of ill princes and their favourites: but as it may seem unreasonable for their lordships to begin to practise upon a good prince, such methods as are pretended only to be needful against an ill one, so it is our humble opinion, that the dangers might be much greater, admitting this precedent; should the Lords combine to defend one another from enquiries and prosecutions, all parliamentary impeachments might be eluded, secret designs carried on, the innocent aspersed without reparation, and the guilty acquitted without trial. Nor is that instance mentioned by the Lords an unreasonable caution, since that revolution in a neighbouring kingdom alluded to by their lordships, was occasioned by the encroachments of a prevailing cabal of Lords, who endeavouring to enslave the people, and to betray their king and their country to a foreign power, obliged the Church and the Commons to unite in the public defence.—Your faithful Commons have found themselves so happy under your majesty's administration, that they please themselves with more agreeable prospects, and, renouncing such examples of unseasonable jealousies and fears, most thankfully receive the blessing of your reign: nor could they have made a more grateful return for your majesty's generous protection to their liberties, than by a suitable concern for your prerogative.—If their lordships had consulted their own Journals, with the same care that we always take to be rightly informed, they would hardly have affirmed, that a direct appeal to the throne, without any previous desire of conference, had been an unprecedented practice. Their books are filled with variety of instances to the contrary; but, without examining their books, it seems very surprizing, that their lordships could so soon forget their Address presented to your majesty the last session on behalf of the lord bishop of Worcester, and their address to the late king on behalf of William earl of Portland, Edward earl of Orford, John lord Somers, and Charles lord Halifax, impeached by the Commons of high crimes and misdemeanors; and when this House formerly expostulated with the House of Lords, for proceedings in the very same method of which they now complain, their lordships made a most solemn declaration in these words.—'That they must ever assert a liberty 'in their House to apply to the throne by them-'selves, for the doing any thing warranted by 'law, &c.'—Nor can the Lords, we presume, upon second reflection, deny the Commons the same liberty, which their lordships themselves have so strongly asserted, and so frequently practised.—Your loyal Commons sincerely concur with their lordships in declaring, that we will never contribute by any act of ours to the diminution of the rights of the crown, and that we will not suffer it in others: Your majesty, their lordships, and the whole world, may judge from the example we have now given, if their lordships do truly wish the House of Commons may, in all times to come, speak and act with that regard to the prerogative, which they allow us the honour to have now taken up; we shall be very unfortunate to continue under their displeasure, at the same time when they seem to hope, that those who succeed us will take pattern by us.—We wish their lordships also on their part may continue, in all times to come, to speak with that regard to parliamentary impeachments, which they seem so lately to have taken up; since we have reason to apprehend, that the misunderstandings which have of late years arisen between the two Houses, have been principally owing to the artifices of some particular persons among themselves, whom the Commons thought it their duty, for the public safety, to bring to justice. How much more difficult will all such endeavours be rendered, should their lordships be once admitted sole examiners of accusations against each other, as they are already sole judges?—We are accused, but most unjustly, of exciting and earnestly desiring your majesty to exert your prerogative against the House of Lords. We appeal to the words of our Address, if it is possible naturally to impose any such sense upon any expression that is there: We are sorry their lordships should descend so low as to the straining and wresting of words, by which they rather discover an unfortunate inclination, to make us seem culpable upon any terms, than that they in truth believe us so. We know how vain and how fruitless an appli-

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cation it would be to excite your majesty to any abuse of your power, which we are convinced you will always exercise for the general good; and so far are your Commons from entertaining any such desire, that we heartily wish to see a good correspondence preserved between the two Houses; nor would forbear to purchase it at any rate, except giving up the rights of your majesty, by whom we are protected, and the liberties and properties of the people, by whom we are entrusted.—These few instances, so plain, and so uncontestable, we presume will be sufficient, without trespassing much longer upon your majesty's time, to discredit whatever else has been alledged, to create in your majesty, and those we represent, an ill opinion of us; We have been careful and industrious to avoid, as far as was consistent with our necessary justification, all occasion of reviving animosities, and, how great soever the provocation has been, your majesty having declared how uneasy you are under such misunderstandings, we shall make no difficulty to lay aside our resentments, who shall always be ready to sacrifice our lives and fortunes to your quiet and service: Nor can we doubt but we must stand fully acquitted to the whole world, and especially to your majesty, since the zeal that we have shewn, and the reproaches that we have borne, have been owing to no other cause but the defence of an excellent queen, in whose hands God Almighty hath placed the executive authority over these nations; which authority it has been the only endeavour of your faithful Commons to preserve as entire as our laws and constitution allow:—May it please your majesty, It is with the deepest concern, and a grief not to be expressed, that your dutiful and loyal Commons have found themselves engaged in disputes of this nature, by which they have been so unseasonably interrupted in finishing the supplies, and other matters of the highest importance. How zealously they have applied themselves to the discharge of their duty, appears from their having already presented your majesty with the greatest part of their aids, with a dispatch and unanimity beyond example: Nor could the few bills yet depending have met the least objection or delay, but from the indispensible necessity of vindicating your majesty's royal prerogative, the privileges of our own House, and the rights and liberties of all the Commons of England, in several instances invaded almost at the same time; we wish there may have been more of mistake than design in those who have created those unhappy differences: However, we desire the remembrance may be henceforth blotted out, and that there may remain no other impression in the hearts both of Lords and Commons, than a sincere and passionate concern for your majesty's welfare and glory: Nor any other contention hereafter arise, but by whom the public good shall be best advanced, the Protestant succession, and the Church of England best secured, and the just rights and prerogatives of the crown best supported.

The Queen's Answer.] The queen's answer was this:

"Gentlemen; I return you many thanks for the great concern which you express for me and my just rights. Your dispatch of the supplies is a great advantage to the public service. And I am very well pleased with the assurances you give me of your care to avoid any occasion of difference between the Houses, especially at this time, when there is so apparent a necessity of strengthening ourselves against the malicious designs of our enemies.

Feb. 24. Ordered, That some members be appointed to search the Journals of the House of Lords, as to what proceedings have been since the last Report to this House, upon the Papers communicated to the Lords by her majesty, relating to the Conspiracy; and several members were appointed accordingly.

Feb. 28. Sir Humphry Mackworth reported, that the members appointed had been to inspect the Journals of the House of Lords, what proceedings had been since the last Report to this House, upon the Papers communicated to the Lords by her majesty, relating to the Conspiracy; but that they did not find any proceedings as yet entered into their Journals: But that out of the papers for making up the same, they had taken copies of the proceedings they found therein, which he reads in his place, and afterwards delivered in at the table, where the same was read.

Ordered, That the consideration of the said Report be referred to the Committee of the whole house, who are to consider of the Papers communicated by her majesty to this house, relating to the treasonable correspondence carried on with St. Germains and the court of France.

Feb. 29. Mr. Freeman, according to order, reported from the Committee of the whole House, to whom it was referred to consider of the Papers communicated by her majesty to this house, relating to the treasonable correspondence carried on with St. Germains and the court of France, the Resolution which they had directed him to report to the house, which he read in his place, and afterwards delivered in at the table, where the same was read, and is as followeth:

Resolved, "That it is the opinion of this Committee, that the House be moved, that an humble Address be presented to her majesty, that she will be pleased to re-assume the just exercise of her prerogative, and take to herself the examination of the matters relating to the Conspiracy, communicated to this House by her majesty; and to give assurance, that they will defend her majesty's sacred person and government against all persons concerned in the said Conspiracy, and all other conspirators whatsoever: And to declare, that the establishing of a Committee of seven Lords, for the sole examination of the said Conspiracy, is of dangerous consequence, and may tend to the subversion of the government."

Resolved, "That the house doth agree with

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the Committee, that an humble Address be presented to her majesty, that she will be pleased to re-assume the just exercise of her prerogative, and take to herself the examination of the matters relating to the Conspiracy, communicated to this house by her majesty, and to give assurance, that they will defend her majesty's sacred person and government, against all persons concerned in the said Conspiracy, and all other conspirators whatsoever; and to declare, that the establishing of a Committee of seven Lords, for the sole examination of the said Conspiracy, is of dangerous consequence, and may tend to the subversion of the government."

Resolved, "That the said Resolution be presented to her majesty by the whole House; which was done according, and her majesty was pleased to return the following answer:

"Gentlemen; The great marks of trust and confidence, which you have given me in this Address, are very acceptable to me.—I thank you for your advice, and shall constantly exercise my just prerogative for the security and satisfaction of my subjects."

Further Proceedings respecting the Scottish Plot.] About the end of January, the earl of Nottingham acquainted the House of Lords, "That the queen commanded him to lay before them the papers, which contained all the matters hitherto discovered of the conspiracy in Scotland; but that there was one thing, which he was also commanded to let their lordships know, was not yet proper to be communicated to the house: because the making it public might prevent a farther discovery of matters of greater importance; but that their lordships should be acquainted with this also, so soon as it could be done without prejudice to the public service." Upon this the Lords resolved to Address her majesty, "That the whole matter, and all papers relating to the Scots plot, might be laid before them with all convenient dispatch, that this House might not want an opportunity, before the end of this session, of enquiring into, and discovering the wicked designs and conspiracies of her enemies." To this Address the queen answered, "That having so lately acquainted them, that she had communicated to them all the particulars relating to the design against Scotland, which could yet be made public without prejudice to the service, her majesty did not expect to be pressed upon that matter, before it was scarcely possible that the state of it could be altered; and that her majesty made no doubt, but, before the end of the session, there would be a proper time to communicate that which could not now be made public without great inconveniency." Two days after, the earl of Nottingham delivered to the Lords several papers relating to the Scots Conspiracy, which being sealed up as the former were, it was ordered, that all the papers should be opened on Tuesday the 8th of February, and all the Lords summoned to attend.

By this time, all possible endeavours had been used to stifle the Plot, and to prepossess the Queen and the public, that the whole was a contrivance of the duke of Queensberry, in order to ruin the dukes of Hamilton and Athol. The duke of of Athol drew up a plausible memorial for that purpose, which he read in the Scotch council in the presence of the Queen; by this memorial it manifestly appeared, that the duke of Athol, though one of the principal persons suspected, had either the perusal or information from the Secretary of State, of the contents of the letters, declarations and examinations relating to the Scots conspiracy, before they were communicated to the House of Lords; a convincing circumstance, that the accused were more countenanced than the accusers: so that it was no difficult matter for them to put a slur upon the plot. There were two other circumstances which seemed to reflect on the earl of Nottingham; his giving ear to the information of Ferguson, whom the suspected persons made use of, to clear them of the treason they were in danger of being charged with; and his discharging an officer in king James's army, who had been seized by the governor of Berwick. This being complained of in the House of Commons, a long debate ensued, which ended at last in a resolve, "That the earl of Nottingham, one of her majesty's principal secretaries of state, for his great ability and diligence in the execution of his office, for his unquestionable fidelity to the queen and her government, and for his steady adhering to the church of England, as by law established, had highly merited the trust her majesty had reposed in him." The Commons, at the same time, ordered, that the Speaker should lay this Resolution before her majesty, when the said Address should be presented to her: Which being done accordingly, the queen was pleased to say, "That she was glad to find they were well satisfied with the earl of Nottingham, who was trusted by her in so considerable a post."

The examinations of the prisoners being also sent to the House of Commons, they heard them read, but passed no judgment upon them, nor did they offer any advice to the queen upon this occasion; they only sent them back to the queen, with thanks for communicating them, and for her wisdom and care of the nation: It was thought strange, to see a business of this nature treated so slightly, by a body that had looked, in former times, more carefully to things of this kind; especially, since it had appeared in many instances, how dexterous the French were in raising distractions in their enemies country: It was evident, that a negociation had begun, and had been now carried on for some time, for an army that was to be sent from France to Scotland; upon this, which was the main of the discovery, it was very amazing to see, that the Commons neither offered the queen any advice, nor gave her a vote of credit, for any extraordinary expence, in which the progress of that matter might engage her; a credit so given might have had a great effect, towards defeating the design, when it appeared how

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well the queen was furnished to resist it: This coldness, in the House of Commons, gave great and just ground of suspicion, that those who had the chief credit there, did not act heartily, in order to the defeating all such plots, but were willing to let them go on, without check or opposition. But the Lords, on the day appointed, resolved to take the plot into consideration, and examine the whole matter fully. They began with reading the papers laid before them, the most material of which was drawn up by the earl of Nottingham, intitled, "An Account of the Conspiracy in Scotland." It was an abstract of all the examinations the council had taken. Some took great exceptions at it, as drawn on design to make the affair appear more inconsiderable than they believed it to be. The substance of the whole was, that there went many messages between the courts of St. Germain's and Versailles, with relation to the affairs of Scotland; the court of Versailles was willing to send an army to Scotland, but they desired to be well assured of the assistance they might expect there; in order to which, some were sent over, according to what France had told the duke of Queensberry; some of the papers were writ in gibberish, so the Lords moved, that a reward should be offered, to any who should decypher these. When the Lords asked the earl of Nottingham, if every thing was laid before him, he answered, that there was only one particular kept from them; because they were in hopes of a discovery, that was like to be of more consequence than all the rest: So, after the delay of a few days, to see the issue of it, which was Keith's endeavours to persuade his uncle (who knew every step that had been made in the whole progress of this affair) to come in and discover it, when they were told there was no more hope of that, the Lords ordered the committee, which had examined Boucher, to examine into all these discoveries. Upon this the Commons, who expressed a great uneasiness at every step the Lords made in that matter, went with a new Address to the queen, insisting on their former complaints, against the proceedings of the Lords, as a wresting the matter out of the queen's hands, and the taking it wholly into their own; and they prayed the queen to resume her prerogative, thus violated by the Lords, whose proceedings they affirmed to be without a precedent.

The seven lords went on with their examinations, and, after some days, they made a report to the House; Maclean's confession was the main thing; it was full and particular; he named the persons that sate in the council at St. Germain's; he said, the command was offered to the duke of Berwick, which he declined to accept, till trial was made whether duke Hamilton would accept of it, who, he thought, was the proper person; he told likewise, what directions had been sent to hinder the settling the succession in Scotland; none of which particulars were in the paper, that the earl of Nottingham had brought to the House of his confession. It was further observed, that all the rest, whose examinations amounted to little, were obliged to write their own confessions, or, at least, to sign them: But Maclean had not done this: for, after he had delivered his confession by word of mouth to the earl of Nottingham, that lord wrote it all from his report, and read it to him the next day; upon which he acknowledged, it contained a full account of all he had said. Maclean's discovery to the Lords was a clear series of all the counsels and messages, and it gave a full view of the debates and opinions in the council at St. Germain's, all which was omitted in that, which was taken by the earl of Nottingham, and his paper concerning it was both short and dark; there was an appearance of truth, in all that Maclean told, and a regular process was set forth in it.

Upon these observations, those lords, who were not satisfied with the earl of Nottingham's Paper, intended to have passed a censure upon it, as imperfect. It was said, in the debate that followed this motion, either Maclean was asked, who was to command the army to be sent into Scotland, or he was not. If he was asked the question, and had answered it, then the earl of Nottingham had not served the queen, or used the parliament well, since he had not put it in the paper. If it was not asked, here was great remissness in a minister, when it was confessed, that the sending over an army was in consultation, not to ask who was to command the army. Upon this occasion, the earl of Torrington made some reflections, which had too deep a venom in them. He said, That the earl of Nottingham did prove, that he had often read over the paper, in which he had set down Maclean's confession, in his hearing, and had asked him, if all he had confessed to him was not fully set down in that paper; to which he always answered, That every thing he said was contained in it. Upon this the earl observed, that sir John Maclean having, perhaps, told his whole story to the earl of Nottingham, and finding afterwards, that he had writ such a defective account of it, he had reason to conclude, (for he believed, had he been in his condition, he should have concluded so himself) that the earl of Nottingham had no mind, that he should mention any thing, but what he had writ down, and that he desired, that the rest might be suppressed. That he could not judge of others but by himself: If his life had been in danger, and if he were interrogated by a minister of state, who could do him either much good or much hurt, and if he had made a full discovery to him, but had observed, that this minister, in taking his confession in writing, had omitted many things, he should have understood that as an intimation, that he was to speak of these things no more; and so he believed he should have said it was all, though, at the same time, he knew it was not all that he had said. It was thereupon moved, That sir John Maclean might be sent for and interrogated, but the party was not strong enough to carry any thing of that kind,

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and, by a previous vote, it was carried by a majority of eleven voices, to put no question concerning the earl of Nottingham's papers.

The Lords were highly offended with Ferguson's papers, and passed a severe vote against those lords who had received such scandalous papers, and had not ordered him to be prosecuted, which they directed the Attorney-general to do. But Ferguson never received the least punishment.

It was apparent, that there was a train of dangerous negotiations, that passed between Scotland and St. Germain's, though the Lords could not penetrate to the bottom of them. And the design of Keith's bringing in his uncle, who knew every step, that had been made, and the whole progress of the affair, to discover the whole scheme of it, was managed so remissly, that it was generally concluded, that it was not in earnest desired it should succeed. During the debates, one very extraordinary thing happened; the earl of Nottingham affirmed, upon three or four occasions, that some things had been ordered in the cabinet-council, which the dukes of Somerset and Devonshire, who were likewise of that council, did not agree with him in. After all these examinations and debates, the Lords concluded the whole matter with voting, "That there had been dangerous Plots between some in Scotland and the courts of France and St. Germain's; and that the encouragement of this plotting came from the not settling the succession to the crown of Scotland in the house of Hanover."

The Lords' Address concerning the Representation of the House of Commons, about the Lords taking the Examinations of Persons concerned in the Scotch Conspiracy.]—March 28. In the House of Lords the duke of Somerset reported an Address,* drawn by the committee, upon the Representation of the House of Commons presented to her majesty; and also the several Precedents cited: Which was read, and agreed to, as followeth:

"May it please your most excellent majesty; We, the Lords spiritual and temporal in Parliament assembled, found ourselves obliged (though with great unwillingness) to make an humble Representation to your majesty, on the 18th of January last, of the injustice done to us by the House of Commons; and it is with the utmost reluctance we are brought to give your majesty a second trouble upon the like unhappy occasion.—This appears by our silence, after the Address of the House of Commons presented to your majesty the 21st of February: for, though that paper be in effect but one continued misrepresentation of our words and our proceedings; yet we thought ourselves secure in your majesty's great judgment, which would discern where the truth lay, through all the colours made use of to disguise it: And we were willing to hope, that a moderation, which was so little deserved, could not but have a good effect upon the House of Commons. But the Votes of the 29th February, which they laid before your majesty, have convinced us of our mistake, and made it impossible for us to flatter ourselves longer with any such expectation. They continue to misrepresent our proceedings, and to solicit the throne against us; and thereby put us upon an absolute necessity of doing ourselves justice, in laying a true state of things before your majesty. When we observe, that the first Address of the House of Commons was ordered the next day after we entered upon the examination of Boucher; that, on the 3d of February, when we appointed a day for taking the papers relating to the Conspiracy into consideration, the House of Commons appointed a committee to draw up the Address against us, presented to your majesty on the 21st, which was the day our committee reported Keith's examination; and that their votes of the 29th came from a committee appointed to consider of the papers communicated to them, the same day we made our Address to your majesty to issue out a proclamation for encouraging the discovery of the cypher of the gibberish letters (though they had made a compliment to your majesty on their reading those papers, and had laid aside all thoughts of them for three weeks together) we cannot without great concern reflect upon the unseasonableness of these applications; what can be more likely to prevent the discovery of this dangerous conspiracy, than a disagreement among those who should unite their endeavours in assisting your majesty to search to the bottom of it? What can more encourage offenders to an obstinate silence, than the prospect of having the examination interrupted by an unhappy breach between the two Houses? And what can give greater security to your majesty's enemies, than to see a foundation laid for such disputes, as will for ever put an end to all parliamentary enquiries into their designs? The gentlemen of the House of Commons have carried this point so far, that rather than suffer us to proceed quietly in searching into the bottom of this dangerous conspiracy, they do not only reflect on us, but depart from their pretences of respect to your majesty, and censure your conduct in assisting our examination, as if you had thereby done an injury to your prerogative. We are therefore obliged, in duty to your majesty, as well as justice to ourselves, farther to explain the grounds on which we have acted, and to produce precedents to shew, we have done nothing unwarranted by the practice of our ancestors.

* "This Address was penned with great care and much force. These addresses were drawn by the lord Somers, and were read over and considered, and corrected very critically, by a few lords, among whom I had the honour to be called for one. This, with the other papers that were published by the Lords, made a great impression on the body of the nation: for the difference that was between these, and those published by the House of Commons, was indeed so visible, that it did not admit of any comparison, and was confessed even by those who were the most partial to them." Burnet.

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"We cannot but observe how the House of Commons have varied their style; in their first Address they directly charged the Lords with wresting prisoners out of your majesty's hands; in their second paper they say only, we seem to exclude your majesty from any power over the prisoners; but the charge is alike unjust in both.—They continue to complain of two of our Orders, one of which, they say, was to remove your majesty's prisoners out of your custody into our own; and the other to commit their examination solely to a committee of seven Lords, chosen and appointed by ourselves.

"We know not by whom a committee of the Lords can be chosen but by the House of Lords; nor can there be any thing more parliamentary, and more proper for the dispatch and secrecy of an examination, than referring it to a committee.—This was practised by both houses of parliament in the year 1678 and 1679, nor was it objected to either, that they took the examination solely to themselves: though the committee of the House of Commons was, in the style of their own books, a committee of secrecy.

"The Lords, the Commons, and the Privy Council had that plot under examination at the same time, yet there were no interfering of jurisdictions; the papers and the witnesses were conveyed to one another as there was occasion, without any disputes; none of them stopped or delayed the enquiries of another, but concurred in promoting them.

"We might have expected, that when the House of Commons charged us a second time with violating your royal prerogative, and the known laws of the land, they would have specified what branch of the prerogative we had infringed, or what law, statute or usage, we had broken; whenever they think fit to be more particular in the charge, we shall be very ready with our answers.

"We shall always contend with the House of Commons in zeal for your majesty's honour and safety; but we shall never pretend to be meritorious in giving up what we know to be the right of parliament: And we are sure your majesty understands and loves the constitution of the English government too well, to approve of such a present: and therefore we must again beg leave to insist on our former Representation, as well founded in every particular.

"We have no cause to be sorry to hear it has been so universally well received, since we are sure it cannot but be for your majesty's service, as well as a full justification of ourselves. We were very careful that there should be no harshness in any expression of our representation; but if they complain of reasoning they cannot answer, or are uneasy to hear truths they cannot deny, it is not our fault.

"The House of Commons were certainly in the right, in not producing the precedents, which they say they have, of the ill language that has passed between the two Houses, because it could not have been agreeable to your majesty.

"We must own we never searched our book for that purpose; and we believe, that if ever the Commons used the like before, our ancestors thought it unbecoming them to return it; and we think it most proper to be forgotten.

"We cannot think that any expressions (by whatever zeal inspired) that are not suitable to the decency which is due from one House of Parliament to another, can shew a respect to your Majesty, or add any force to their arguments.

"We do not comprehend what is meant by their saying, we did appropriate to the House of Lords only the name of a parliament. There is no foundation for that charge in any word of our representation; nor was there any occasion for such an assertion in the controversy between us: both Houses are alike interested in the point we maintain. We are sure the House of Commons have claimed and exercised such a power of examination and commitment as the Lords insist upon; and we are well assured, that, on proper occasions, every future House of Commons will do the like again: so that let the gentlemen of the present House of Commons be as liberal as they please in renouncing their own right, and as much displeased as they think fit with the House of Lords for not following their example, we have this comfort, that your majesty is too equitable to think amiss of us for our parliamentary rights, and we are sure of having every House of Commons, that shall sit hereafter, of our side, as well as every Englishman who values the constitution of his country.

"There is no passage in our history more notorious, than that the pretended House of Commons in the year 1648, when they could not prevail with the House of Lords, then sitting, to join with them in the intended murder of their king, took upon them first to abolish the House of Lords by a vote, and then to proceed to do that execrable fact by themselves.

"It is not therefore to be imagined what the House of Commons can mean, by saying, that assembly was composed of both houses. If all other proof of the contrary was wanting, yet the testimony of that blessed, though unfortunate king, is abundantly sufficient, who made it one of his exceptions to that detestable court at his trial.

"We can never call to mind that fact without horror, and yet we are obliged by law to commemorate it every year; and surely it can never be mentioned more usefully than upon such an occasion, when the strange usage of one House of Parliament by another, makes it impossible not to reflect on the miserable consequences that have formerly followed from such differences.

"When the gentlemen of the House of Commons act according to the measures taken in those times, they ought not to be offended, if they are remembered by the Lords. If they will take upon themselves to stop the issuing out your majesty's writs for filling up their

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house, and that in several places, and for a long time, whereby they make themselves an imperfect representation, which is a wound to the constitution, a wrong to the boroughs who have a legal right to send representatives, and an injustice to your majesty, who has an undoubted title to the service and attendance of all the members; can they wonder, or ought they to complain, if we presume to tell your majesty, that very few things were less excusable in that unhappy House of Commons, than their refusing to fill up their body, and compleat the representation?

"These beginnings are very dangerous: it is not easy to foresee how far such a practice may be carried, or what effects it may have upon the boroughs that suffer the present wrong, or upon others who may apprehend the like usage; and who can say, but in after-times an ill prince may take advantage of such precedents, and think himself justified in withholdings his writs from some, by as good law as the Commons can shew, for pretending to stop them from issuing to others?

"The Commons have made three Addresses to your majesty upon this occasion, yet have not stated the matter in dispute fairly in any one of them. The plain matter of fact is this; Boucher, Ogleby, &c. being seized by the custom-house officers on the coast of Sussex, as they landed from France, were sent for to be brought to town by messengers: the Lords having resolved to examine these persons themselves, ordered the messengers to bring them to the House; and committed them to the black rod, in order to their examination. The question is, Whether this proceeding of the House of Lords was a breach of any law, or contrary to the custom of parliament? we asserted it was not, and as we humbly apprehend, we proved our assertion, by undeniable reasons, and we assured your majesty we could justify it by precedents.

"It appears by our records, that we have at all times, when we thought it expedient for the public good, not only taken prisoners out of the custody of messengers (which is but a temporary confinement in order to the examining persons, or while they are under examination) but taken them out of any other custody, and put them sometimes into the custody of your majesty's officers attending the House of Peers, sometimes removed them from one prison to another, as the House thought most safe and proper for their examination.

"Persons condemned, and under sentence of death, may be most properly called the prisoners of the crown, when their lives and estates, as well as liberties, are entirely at mercy; yet the House of Lords sent for several in those circumstances from the farthest parts of England to be examined.

"We could produce precedents in all times when any thing of this nature has been before the house; the most antient records furnishing the clearest and most frequent instances of the jurisdiction of the Lords, in examining, trying, and punishing all great offenders.

"But we shall at present confine ourselves to the proceedings in respect to the Popish Plot, in the reign of your majesty's royal uncle, (except in some few instances in both houses, as well before as after that time) not only because that was the last conspiracy that fell under a parliamentary examination; but because both Houses of Parliament entered into the enquiry with equal zeal. And we beg leave to annex to this our humble Address, some extracts of the Proceedings of both Houses in that enquiry.

"We desire to observe, that though the king mentioned that Plot in his speech, at the opening of the session, yet he was so far from communicating the particulars to the parliament, or desiring them to look into it, that he directly told them, he would leave the matter to the law.—He was not very desirous of having the parliament meddle with that enquiry, and therefore it is reasonable to suppose he would not have been silent, if their proceedings had been a violation of the prerogative, and the known laws of the land.

"We beg leave to make this single remark, on such of the precedents as relate to the removal of the popish priests after sentence of condemnation, that this was taken notice of by the Commons, and several messages passed between the two Houses about them: The Commons were earnest that they should be executed, and insisted to have them sent back to the several prisons for that purpose; but they never pretended to deny that the Lords had power to send for them, or change the custody.

"The Commons in their second Address pretend to have been sensibly affected, and provoked to their harsh treatment of the Lords, by what passed in the Lords' House the 29th of Jan. which was almost six weeks after their Address was presented. It looks as if they wanted reasons to justify the ordering that Address, when they are forced to defend it by argument drawn from facts which happened so long after.

"If the Commons had considered our Address of the 29th of January, or 15th of February, they would have found in them no contradictions, or counter-orders to your majesty, with which they charge us. We were informed of several papers that had not been communicated to us; those we desired, and we received them by your majesty's command; and have, we hope, made use of them for your majesty's service and the public safety. We have had the happiness that our zeal has been more than once approved by your majesty: and we leave the Commons to justify their own coldness and indifference in a point of such high concern.

"If we look back on the steps the Commons have made in this whole matter, they are such as will hardly be believed hereafter: And we can desire nothing more for our justification, than that our proceedings and theirs may be compared.

"When the papers relating to this Conspiracy were laid before them they contented themselves with reading them, and without

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offering any advice or assistance, gave your majesty thanks for laying the papers before them, and expressed their satisfaction in your majesty's wise conduct and great care of your people. This was certainly justly due to your majesty's prudent administration, but was not all that might have been expected from a House of Commons, when your majesty had laid before them the account of such a dangerous Conspiracy.

"Thus the matter rested for several weeks; and when at last the House of Commons thought fit to take up a second time the consideration of those papers, instead of doing what we hoped, and the kingdom expected from them, all they did was to find new cause of displeasure against the Lords, to complain of what your majesty had done, to solicit you to re-assume the just exercise of your prerogative, and to desire you to stop our proceedings, as of dangerous consequence, and what might tend to the subversion of the government.

"This conduct seems very unaccountable: And when they had not thought fit to pass any judgment on the Conspiracy, it is hard that the enquiry into it should be so severely censured.

"The Commons confine what we spoke in general terms, of the fatal consequences that have happened in most countries in Europe, from the unhappy differences that have arisen between the estates of the several kingdoms, to the instance of one country: The observation was general, and the overthrow of the liberties of most of our neighbours sprung from this root.

"But we are surprised, that the House of Commons should single out that instance of a revolution in a neighbouring country, where the Clergy and the Commons were prevailed upon by the management of the court, to carry their resentments against the Lords so far, that they delivered up the authority of the Lords, the freedom of the people, and made a total alteration of the government.

"We cannot imagine what is meant by calling this treachery of the Commons and Clergy, in betraying the liberties of their country, their uniting in the public defence; nor can we conceive, how this comes to be mentioned on this occasion: We hope there is no danger of such union amongst us for such purposes; and we think your majesty and your people are equally concerned in this insinuation.

"It is wonderful that the Commons should magnify their own care in examining our journals, reflect on us for not looking into our own books, and at the same time cite two precedents, in which they are entirely mistaken, and which prove the direct contrary to what is inferred from them.

"The Lords in their Representation affirm, that the Commons, by appealing directly to the throne against the House of Lords, and charging them with attempts of the highest nature, without first asking a conference, had done a thing unprecedented. The Commons, to prove the contrary, cite the Address presented to your majesty on behalf of the bishop of Worcester, and the Address of the Lords to the late king on behalf of four lords named in their Address. We crave leave to state those two cases: The Commons had censured the bishop of Worcester without giving him any opportunity of being heard: They had voted him unchristian, which surely is aspersing the innocent without possibility of reparation, as well as it was condemning him without a trial, and made an Address to your majesty to remove him from being almoner. This proceeding seemed very extraordinary with respect to your majesty; and very unparliamentary with respect to the House of Lords, of which the Bishop was a member, and yet no notice was taken of them: Upon this the Lords made an application to your majesty on behalf of the reverend prelate, that he might not suffer in your majesty's opinion, before he had an opportunity of making his defence.

"The case of the four Lords was this: the Commons having at the bar of the House of Lords impeached them for high crimes and misdemeanors, the next day made an Address to the late king to remove them from his presence and councils for ever: The House of Lords thought this an attempt of the highest nature upon their judicature, that while the causes were depending before them in parliament, the Commons should quit the part they had taken of accusers, and pretend to be the judges themselves, and solicit the king to put their sentence in execution immediately. But yet they proceeded to act with such a moderation as was scarce to be justified; they forbore expostulating with the Commons, much less did they appeal to the throne against them; they only desired the king not to pass any censure upon them before they were tried; they took no notice that the Commons had made any address, and only endeavoured to prevent the injustice and oppression which might have been done to their own members, and the affront offered to their judicature, without making the lenst reflection on this proceeding; and they had no other way of acting, for no conference could have prevented the impression that might have been made on the king by such an application of the Commons.

"Besides, in both these cases the Commons were the aggressors; they first applied to the throne, and made it necessary for the Lords to follow them. Thus far these instances may be of use to shew by what steps the Commons rose to this way of addressing against the House of Lords; they began these attempts in the case of particular Lords, which now they put in practice against the whole body of the peers.

"The Lords will think themselves concerned in all times, to observe and maintain the laws and usage of parliaments, in impeachments, and this they did with all possible exactness upon the occasion of the impeachments of those four Lords; but they could not judge it reasonable to let the accusers share with them in their judicature. And if the Commons in times to come shall so far forget themselves, as

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to endeavour to blast men's reputation, by exhibiting articles, when they are not able or prepared to maintain their charge, the Lords will always look upon themselves as bound to do equal justice and discharge the innocent. Nothing can truly lessen or weaken the force and awe of impeachments, but a partial use of them: While they continue to be the equal instrument of public justice, they will have their weight in all places; but if once they are made use of to defame men only without thoughts of bringing them to trial, impeachments will lose their terror and the House of Commons will not increase their honour or authority: And if in that case the House of Lords could not do justice to the accused, they would be the only judicature which had the unhappy power of condemning, but not of acquitting.

"The Lords are far from pretending to be the sole examiners of conspiracies, if the Commons will do their duty in concerning themselves for the public safety; but if they will shew so little zeal as the gentlemen of this House of Commons have done; if, when they are told of conspiracies from the throne, they will concern themselves so little as to leave the enquiry to others, the Lords must of consequence be the sole enquirers, or else parliaments must be totally excluded from such examinations.

"The Commons in their second Address complain, that they are accused most unjustly of exciting and earnestly desiring your majesty to exert your prerogative against the House of Lords. The words of their first Address are so plain, that no other constuction could be reasonably put upon them, and we are now very sure we did not mistake their meaning, since in the Votes which they have laid before your majesty, they have thought fit to explain themselves, and in direct terms desire your majesty to re-assume the just exercise of your prerogative, and take to yourself the examination of the matters relating to the conspiracy.

"There needs no wresting or straining these words, to justify the interpretation we made of their first Address, and surely they had forgot what they said in their second, when they came to pass those Votes, by which the sincerity of their professions, when they pretend to desire that the remembrance of those unhappy differences may be blotted out, does best appear. But we are still at a loss to know what they truly mean by your majesty's re-assuming your just prerogative.

"Your majesty was pleased to lay the papers relating to the Conspiracy before us, and you have given your royal approbation to the method in which we had put the examination: and it seems a strange averseness to parliamentary enquiries, that they would not leave it possible, even with the concurrence of the crown, for either house of parliament to enquire into conspiracies; though at the same time we must freely own, that if this power be not lodged in us by the constitution, it ought not, nor, indeed, cannot be given and delegated by the crown.

"Most gracious sovereign, we humbly ask pardon for having detained you so long, upon a subject which cannot but be disagreeable to your majesty.—We beg leave to conclude, with expressing the just sense we have of that virtuous and truly royal moderation, which your majesty has shewn upon this occasion, in not suffering yourself to be prevailed upon, to do any thing to the prejudice of the constitution, from whatsoever hands the invitation comes. It shall be our daily prayers to Almighty God, that he will long preserve and prosper your majesty for the good of this kingdom; and that your reign may be as glorious all the world over, as it is happy to all your people."

Annexed to the above Address, was the following List of Precedents.

PRECEDENTS out of the Journals of the House of LORDS.

May 22, 1675. A paper was presented to the House, being Examinations taken by some Justices of the Peace in the county of Surry, concerning some blasphemous speeches spoken by John Taylor now a prisoner at the gaol at Guilford, which paper being read, the House ordered as follows:

Ordered, That the serjeant at arms bring in safe custody to the bar of this house, on Friday next, at ten of the clock in the forenoon, the body of the said John Taylor.

Oct. 21, 1678. His majesty acquaints the Lords and Commons with a Plot against his person, in a speech, part of which speech, so far as relates to the Plot, follows, in hæc verba:

"I now intend to acquaint you, (as I shall always do with any thing that concerns me,) that I have been informed of a design against my person by the Jesuits; of which I shall forbear my opinion, lest I may seem too say to much, or too little, but I will leave the matter to the law; and, in the mean time, will take as much care as I can, to prevent all manner of practices by that sort of men and of others too, who having been tampering in a high degree by foreigners, and contriving how to introduce popery among us."

Whereupon, the House made the following Address;

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, having been acquainted by your majesty, that there is information given of a horrible design against your majesty's sacred life, (which God long preserve) are humble suitors to your majesty, that you would vouchsafe to communicate to us (as far as your majesty shall think fit) such papers as have any tendency to the discovery thereof, or of any other design against the Protestant religion, as it is now etsablished in the church of England, that we may use our utmost endeavours to serve your majesty, according to our bounden duty and allegiance.

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Oct. 23, 1678. The papers concerning the plot were delivered to the deputy clerk of the parliaments, by one of the clerks of the council.

Lords Committees were appointed to consider of the papers transmitted from the council by his majesty's directions, concerning the discovery of the horrid design against his majesty's sacred person, or of any other design against his majesty, or his kingdom, by introducing popery, whose lordships have power to send for persons, papers, and records, as they shall see cause.'

Oct. 30, 1678. Ordered, That Nathanial Thomson, who is now in the custody of William Sorocold, for printing popish books for James Thomson, shall stand committed to the prison of the Gate-house, at Westminster, during the pleasure of this House.

Oct. 31, 1678. Ordered, That the Lords with white staves do attend his majesty, humbly to desire him from this House, that the papers of Mr. Whitebread and Mr. Micho, which have been read at the Council-Table, may be by his majesty's command, brought before the Committee to examine papers, relating to the horrid design against his majesty; and also that the clerks of the Council may bring the minutes, taken by them, upon the examination of Titus Oates, and others, before the Council, concerning this matter.

Nov. 4, 1678. Ordered, That the Lords Committees appointed to examine the Lords who are prisoners in the Tower of London, for treason, shall also examine such other persons, who are now prisoners in the Tower for treason, as their lordships shall think fit, and also sir Ellis Leighton, now prisoner in Newgate; and that the Lord Chief Justice of England do assist their lordships at such times as they shall appoint; and that one of the clerks of the Privy Council do attend their lordships.

Nov. 8, 1678. Ordered, That the Lords, with white staves, do attend his majesty, humbly to desire from this House, that the letter of Mr. Coleman, of the 29th of September, 1675, to father Le Chese, and another of his to father Le Chese, wherein he owns the sending the said letter, and monsieur Le Chese's letter, whereby he owns the receipt thereof, which have not been read in this House, may, by his majesty's Order, be brought hither.

The Lord Treasurer reported his majesty's Answer.

'That his majesty will give Order, that the 'said Letters shall be brought to this House, as 'soon as may be.'

Nov. 18, 1678. Ordered, That Edward Coleman, now a prisoner in Newgate for treason, be brought by the keeper of Newgate, before the Lords Committees to peruse letters and papers, to morrow at nine of the clock in the forenoon; and that the duke of Monmouth be desired to send a sufficient guard of soldiers, to assist the keeper of Newgate, in the service of bringing and returning Edward Coleman.

Ordered, That the Lords, with white staves, do humbly desire his majesty, that his majesty will please to give Order, that the papers of Mr. Goodwin, now in the hands of the clerks of the Council, may be brought before the Lords Committees appointed to consider of, and prepare the evidences for the trial of Mr. Coleman.

Nov. 23, 1678. Ordered, That the serjeant at arms attending this House, his deputy, or deputies, do forthwith repair to Stratford upon Avon in Warwickshire, and bring thence the body of Mr. John Gerard, supposed to be a priest, and one other person mentioned, but not named, (in a letter dated there the 20th of November) and subscribed Simon Cale, mayor, John Wolmer; in which it is recited, that they were in custody there, for refusing the oath of allegiance, and bring them in safe custody to the bar of this House.

Dec. 27, 1678. Ordered, That Dr. Lower and Dr. Warner, be, and are hereby appointed to visit Mr. White, alias Whitebread, being sick near Weld house, and give this House an account to morrow morning, in what condition of health they find him.

Nov. 28, 1678. Ordered, That the clerk of his majesty's privy council, in whose custody the depositions lately taken at the Council-board are, which concern the queen's majesty, be, and is thereby appointed to bring the said depositions before this house to morrow at nine of the clock in the forenoon.

Nov. 29, 1678. The House received an account, that Dr. Lower and Dr. Warner have visited Whitebread, and they find that his former distempers have left him, and he hath now only a tertian ague; and their opinion is, that he may be removed safely upon his intermitting days: It is ordered, that the serjeant at arms attending this House, shall to morrow, attach the body of Mr. White alias Whitebread, and carry him forthwith to the prison of Newgate, there to remain in safe custody, till he shall be delivered by due course of law.

Upon information given to this House, that one Daniel Maccarty, a Romish priest, is now under custody in Thetford in the county of Norfolk, It is ordered, That the serjeant at arms attending this House, his deputy or deputies, shall forthwith repair to Thetford aforesaid, and bring thence the body of the said Daniel Maccarty, in safe custody to the bar of this house.

Dec. 20, 1678. Whereas Daniel Maccarty, a Romish priest, was, by Order of the 29th of November last, brought from the jail of Thetford in the county of Norfolk, by the serjeant at arms attending this House, and is now in his custody here; it is this day ordered, by the Lords spiritual and temporal, in parliament assembled, that the Lords Committees for examining persons and papers, for discovery of the horrid design against his majesty's person and government, shall examine the said Daniel Maccarty: And if their lordships find, that he is not charged with any particulars relating to the said design, he is to be remitted and left to the law; but if otherwise, their lordships

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are to report to the House what they find concerning him.

Dec. 3, 1678. Upon information given to this House, by the lord Windsor, that one Edward Whitaker stands committed in the city of Worcester, for some unbecoming words by him uttered, as is certified in a letter to his lordship, signed Jo. Tyas, mayor: It is ordered, that the said Mr. Whitaker shall give bail before the mayor of Worcester, for his appearance before the Lords in parliament, within eight days next after such bill given.

Dec. 13, 1678. Edward Whitaker being called for, to answer the charge against him, sent up from the mayor of Worcester, but being not to be found, It is ordered, that if the said Edward Whitaker come not, and render himself before the house rises, he shall be attached; and he not coming, it is ordered by the Lords spiritual and temporal, in parliament assembled, That the serjeant at arms attending this House, or his deputy, do forthwith attach the body of Edward Whitaker of London, gentleman, and bring him in safe custody to the bar of this house to-morrow morning, to answer to the informations put into this house, upon oath, against him: And this shall be a sufficient warrant on that behalf.

Dec. 14, 1678. Whereas Edward Whitaker was this day brought to the bar by the serjeant at arms attending this house, to answer to the informations against him, which he denies, alledging, that he hath witnesses to clear himself of the matters charged on him: Upon consideration had thereof, it is ordered, by the Lords spiritual and temporal, in parliament assembled, That the said Edward Whitaker may, and shall have order for summoning his said witnesses, to be heard *viva voce*, on the second day of the sitting of the parliament, next after Christmas, if he desires it; at which time also the witnesses, who have informed against him, shall be summoned to be heard *viva voce;* and that in the mean time, the said serjeant at arms shall deliver the said Edward Whitaker, into the prison of Newgate, there to remain in safe custody till further order: And this shall be a sufficient warrant on that behalf.

Dec. 3, 1678. Upon information given to this House, that one ——— Barnesly, a Romish priest, is now under custody in the city of Worcester; it is ordered, That the serjeant at Arms attending to this House, his deputy, or deputies, shall forthwith repair to the city of Worcester, and bring thence the body of the said ——— Barnesly, in safe custody, to this House.

Dec. 14, 1678. Whereas Henry Barnesly, who was by order of this House, sent for from the gaol of Worcester, was this day brought to the bar by the serjeant at arms attending this House, and there examined, being supposed to be a Popish priest; it is ordered, by the Lords spiritual and temporal, in parliament assembled, That the said Henry Barnesly shall, by the said serjeant at arms, or his deputy or deputies, be returned into the gaol in Worcester, there to remain in safe custody, until he shall be thence delivered by due course of law: And this shall be a sufficient warrant on that behalf.

Dec. 23, 1678. Upon reading the petition of Henry Barnesly, now in the custody of the serjeant at arms attending this House, shewing, that, being by order of this House brought from Worcester, and, by like order, to be returned thither again; and that being very old and sickly, he is not able to bear the journey in this hard season of the year; and therefore praying, that he may remain here upon bail: It is ordered, by the Lords spiritual and temporal, in parliament assembled, that the said Henry Barnesly (being charged to be a Popish Priest) shall, by the said serjeant at Arms, be delivered into the prison of the King's Bench, there to remain in safe custody, till he be better able to be returned to Worcester, in order to his trial there; and this shall be a sufficient warrant on that behalf.

Dec. 6, 1678. Upon report made by the earl of Clarendon, from the Lords' committees to examine persons, and papers, &c. that their lordships think it necessary that sir Henry Tichborne, a Popish recusant, now prisoner in the gaol at Winchester, be brought up to town: It is ordered, that the Serjeant at Arms attending this house, his deputy or deputies, shall forthwith repair to Winchester, and bring thence the said sir Henry Tichborne, and deliver him into his majesty's Tower of London, there to remain in safe custody, till farther order; and this shall be a sufficient warrant in that behalf.

To sir George Charnock, knight, serjeant at arms, attending this House, and to the Keeper of the Gaol at Winchester, and to the Constable of his majesty's Tower of London, and their respective deputies; as also, to all his majesty's officers, civil and military, to be aiding and assisting in this service.

Dec. 20, 1678. Upon information given to this House upon oath, that Thomas Thorn, now, or late, servant to Richard Tasbrough, esq.; hath uttered dangerous and treasonable words, and that he is at present in the gaol at Bury in Suffolk: It is ordered, that the serjeant at arms attending this House, or his deputy or deputies, shall forthwith repair to Bury, and bring thence the said Thomas Thorn, in safe custody to the bar of this house, to answer thereunto.

Dec. 21, 1678. Whereas Richard Tasbrough, esq.; was this day brought to the bar, by the serjeant at arms, and denied all that was alledged against him; and whereas there is a warrant of the Lord Chief Justice of England, issued against him; it is ordered, that the serjeant at arms deliver the said Richard Tasbrough in safe custody, to such person or persons as the Lord Chief Justice of England shall direct.

March 29, 1679. Upon information given to this house, that Richard Tasbrough, esq.; who is charged to be guilty of the late horrid

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conspiracy, for which he was committed to the prison of the King's Bench, hath since been enlarged, upon bail, and is now to be brought to his trial at the assizes at Bury, in the county of Suffolk: Upon consideration had of the case of the said Richard Tasbrough, it is ordered, by the Lords spiritual and temporal, in parliament assembled, that the judge of assize for that county be, and is hereby directed, that his lordship proceed no further upon the trial of the said Richard Tasbrough, than to the indictment of him, and the finding thereof by the Grand Jury; and that the said Richard Tasbrough may be safely sent up to London, in order to his trial, to be had at the bar of the court of King's Bench. And it is further ordered, that Mr. Thomas Beake, one of the messengers attending his majesty's Council-board, be, and is hereby authorized and required, with all speed, to attend the said judge of assize for this purpose, and to take care of the execution of this order, as to the bringing up the said Richard Tasbrough in safe custody, in order to his intended trial: And for so doing *this* shall be a sufficient warrant.

December 26, 1678. Ordered, That it be referred to the Lords' committees for examining persons and papers, to examine Richard Tasbrough and Thomas Thorn.

Upon information to this House by the lord viscount Newport, that one Valentine Harcourt, a Popish priest, is taken, and now in custody in the gaol of Shrewsbury: It is ordered, that the Sheriff for the county of Salop, be, and is hereby required, to take, and give order for the sending of the said Valentine Harcourt in safe custody, to appear at the bar of this house, and that the charge of the said Sheriff shall be allowed upon his account in the Court of Exchequer. And it is ordered, that the Sheriffs of the respective counties, through which the said Valentine Harcourt shall pass in his being sent up, as aforesaid, be aiding and assisting to the furtherance thereof, as occasion shall require.

March 21, 1678-9. Upon report made from the Lords' committees, for examining matters relating to the discovery of the late horrid conspiracy, that capt. Francis Spalding, deputy governor of Chepstow Castle, who was, by order of this house, dated the 21st day of Nov. last, committed to the prison of the King's Bench, for matters wherewith he stands charged, hath since that time been enlarged upon bail, and being upon bail, commands still at Chepstow Castle, as deputy governor, and hath misbehaved himself, as hath appeared to the said Lords' committees: it is thereupon ordered, by the Lords spiritual and temporal, in parliament assembled, that the serjeant at arms attending this House, or his deputy or deputies, do forthwith attach the body of the said Francis Spalding, and bring him in safe custody to the Bar of this House: And this shall be a sufficient warrant on that behalf.

March 27, 1679. Captain Francis Spalding being brought to the bar by the serjeant at arms, was asked, whether he is not under bail? which he acknowledged; and that Sir Ralph Delaval and Mr. Banks are his bail, taken in the King's Bench; and being asked why he went down to Chepstow Castle, being a prisoner under bail, and by whose order? he said, he had no order for it, but went of his own head. Then the matter wherewith he was charged, and for which he was committed on the 21st of November last, was read, and also the deposition of Thomas Crowder, a soldier of that garrison, was read, &c.

Whereas Captain Francis Spalding, who was on the 21st November last committed to the prison of the King's Bench, there to remain in safe custody till further order, hath since procured his enlargement upon bail, and repaired to Chepstow Castle, as deputy governor thereof, and misbehaved himself there, as appeareth by the deposition of Thomas Crowder, and other matters, upon which he was this day examined at the bar, being now in custody of the serjeant at arms attending this House: It is ordered by the Lords spiritual and temporal, in parliament assembled, that the said Francis Spalding be re-committed to the prison of the King's Bench, there to remain in safe custody, till further order; and that the said serjeant at arms, or his deputy, take care to convey him, the said Francis Spalding, to the said prison: And this shall be a sufficient warrant on that behalf.

March 25, 1679. Upon report made by the earl of Clarendon, from the Lords' committees for examining matters relating to the discovery of the late horrid conspiracy, that their lordships are of opinion, that Edward Turner, a Priest and Jesuit, who hath been examined before them, and is now in the custody of Francis Strutt, a messenger, should be committed to prison: It is ordered, that the said Francis Strutt shall forthwith deliver the said Edward Turner into the prison of the Gate-house, at Westminster, there to remain as a prisoner, till he shall be delivered by due course of law.

To Francis Strutt, messenger, his deputy or deputies, and to the keeper of the prison of the Gate-house.

April 15, 1679. Whereas, sir William Andrews is seized on, and brought to town in custody, as an agent in the late horrid conspiracy against the king: It is this day ordered, that the officer in whose custody the said sir William Andrews is, shall forthwith deliver the said sir William Andrews into the prison of the Gate-house at Westminster, there to remain a prisoner, till further order.

April 28, 1679. Upon report from the Lords' committees for examining matters relating to the discovery of the late horrid conspiracy, that their lordships have received information made upon oath, that sir William Andrews, now a prisoner in the Gate-house, at Westminster, is engaged in the conspiracy against his majesty's person and government: It is thereupon ordered, by the Lords spiritual

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and temporal, in parliament assembled, that the keeper of the Gate-house aforesaid, be, and is hereby required to take care, that the said sir William Andrews be forthwith conveyed and safely delivered into the Tower of London, there to remain a prisoner, till he shall be discharged by due course of law; and for so doing this shall be a sufficient warrant.

April 21, 1679. Upon report from the committee for examinations, that James Allen, who was taken into custody, being charged with encouraging Elizabeth Oxley to fire houses, hath been examined by your lordships, and denieth what is charged upon him; and in regard the examinations taken concerning a house fired in Fetter-lane, are before a committee of Commons: It is ordered, that the serjeant at arms attending this House, do forthwith carry the said James Allen to the said Committee, to be examined, and disposed of as they please.

Upon report from the committee of examinations, that their lordships think it necessary that William Sturges, now a prisoner in the gaol at Chelmsford, should be brought to town: It is ordered, that the serjeant at arms attending this House, do forthwith repair to the gaol at Chelmsford, in Essex, and bring thence the body of the said William Sturges, and deliver him into the prison of the Gate-house, at Westminster, there to remain a prisoner till further order.

April 23, 1679. Upon report from the Lords' committees for examinations, that their lordships find it requisite, that David Lewis, who hath been tried and condemned as a Popish priest, at the assizes held for the county of Monmouth, and is now in gaol there, may be brought to town: It is ordered, that the sheriff for the county of Monmouth be, and is hereby required to take care, and give order for the speedy conveying the said David Lewis, in safety, from the said gaol, to be delivered into the prison of Newgate, the charges of which service shall be allowed to the said sheriff upon his account in the Exchequer.

The like order for Roger Hanslip, in the gaol at Gloucester.

The like order for John Kemple, in the gaol at Hereford.

The like order for Francis Johnson, alias Webb, in the gaol at Worcester.

May 8, 1679. The earl of Clarendon reported from the Lords' committees for examinations, that William Harcourt the Jesuit is taken, and now in the hands of the officer that took him: It is ordered, that the said William Harcourt be brought to the bar presently.

Eodem die, p. m. William Harcourt was brought to the bar, and being there charged with treason, the House made the following Order:

"Whereas William Harrison, alias Harcourt, was this day brought to the bar, and was there charged with High Treason: It is ordered, that the gentleman-usher of the black rod, attending this House, do take special care, forthwith to convey the said William Harrison, alias Harcourt, in safety to Newgate, there to remain a prisoner, till he shall be discharged by due course of law."

To the Gentleman-Usher of the Black-Rod, attending this House, &c.

May 19, 1679. Whereas Richard Gerrard, esq.; is charged upon oath with treason: It is ordered that the keeper of the prison of the Gate-house, at Westminster, (in whose custody the said Richard Gerrard now is) be, and is hereby required forthwith to take care for the conveying of the said Richard Gerrard to the prison of Newgate, there to remain a prisoner, 'til he shall be discharged by due course of law: And this shall be a sufficient warrant in that behalf.

Oct. 30, 1680. It being signified to this House, that Oliver Plunket, the titular primate of Ardmagh, in the kingdom of Ireland, is, by his majesty's order, brought over hither, in order to his trial here, and is now in custody in the hands of a messenger: It is ordered, that the messenger, in whose hands the said Oliver Plunket now is, be, and is hereby authorized and required, forthwith to convey and deliver the body of the said Oliver Plunket into the prison of Newgate, and that the keeper of the said prison do keep him there in safety, until he shall be discharged by due course of law: And that the said keeper and his under-officers do take care, that the said Oliver Plunket be kept a close prisoner, till the pleasure of this House be farther signified; and this shall be a sufficient warrant in that behalf.

To the Messenger in whose custody the said Oliver Plunket is, and also to the Keeper of the Prison of Newgate, his Deputies and Under-Officers, and every of them.

Jan. 4, 1680. Ordered, by the Lords spiritual and temporal, in parliament assembled, that Mr. Attorney General do peruse the information read this day, and draw warrants for the commitments of sir John Fitzgerald, col. Pierce Lacy, and lieut. col. Bradly, as may be available in the law, and attend the judges for their assistance therein, and present the same to the House to-morrow, at ten o'clock in the forenoon.

Ordered, That sir John Fitzgerald, col. Pierce Lacy, and lieut. col. Bradly, do remain in the custody of the pursuivant, as now they are, till the House gives further order.

Jan. 5, 1680. Ordered, by the Lords spiritual and temporal, in parliament assembled, that sir John Fitzgerald be committed to the Gate-house for treason, in compassing the king's death, and in levying war, and practising to introduce a foreign force into the kingdom of Ireland, and to depose the king from the crown of Ireland; and that the messenger, in whose hands the said sir John Fitzgerald is, be, and is hereby authorised and required, forthwith to deliver and convey the body of the said sir John Fitzgerald into the prison of the Gate-

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house; and that the keeper of the said prison do receive and keep him there in safe custody, till he shall be discharged by due course of law: And this shall be a sufficient warrant in that behalf.

Ordered, by the Lords spiritual and temporal in parliament assembled, that Pierce Lacy, esq. be committed to Newgate for Treason, in compassing the king's death, and in levying war, and practising to introduce a foreign force into the kingdom of Ireland, and to depose the king from his crown of Ireland; and that the messenger, in whose hands the said Pierce Lacy now is, be, and is hereby authorised and required, forthwith to convey and deliver the body of the said Pierce Lacy into the prison of Newgate; and that the keeper of the said prison do receive, and keep him there in safe custody, until he shall be discharged by due course of law: And this shall be a sufficient warrant on that behalf.

The like Order for col. William Bradly.

Dec. 10, 1689. Ordered, by the Lords spiritual and temporal in parliament assembled, that Mr. Vernatti, now in custody, do stand committed to the gentleman-usher of the black rod attending this House. And it is further ordered, that the said gentleman-usher go to the lodgings of the said Vernatti, and secure his papers, and seal them up in his presence, and set a guard on his house or lodging.

PRECEDENTS out of the JOURNALS of the HOUSE OF COMMONS.

March 24, 14 Car. 2. Upon information, that George Withers had been the author and publisher of a scandalous and seditious pamphlet, to enrage the people, and to vilify and defame the members of this House, and to blemish the honour and justice of this House, and their proceedings, and was now a prisoner in Newgate,

Resolved, That the said George Withers be brought in custody of the Serjeant at Arms attending this House, or his Deputy, to the bar of this house, at four o'clock this afternoon, to be examined touching the matters objected against him; and the keeper of Newgate, or his deputy, is to cause him to be brought accordingly.

Resolved, That this House do adjourn 'till 3 o'clock this afternoon.

George Withers being then brought in custody to the bar of this House, and the scandalous seditious libel, with which he stands charged, being shewn unto him, the same being in two distinct papers; upon view of the first of them, he declared, That the same might be his hand, but that it was but parcel of what he intended; and the other writing being shewn to him, he confessed the same to be of his own handwriting; and two witnesses being called in, viz. Henry Northrop and Robert Heyborne, and testifying that they took the said papers from under Mr. Withers's hand, and that he was writing part of them just when they were taken from him; and that he did, upon examination before Mr. Attorney General, confess the said papers to be of his own contriving and drawing.

Resolved upon the question, That George Withers, who was this day brought from the prison of Newgate to the bar of this House, be sent prisoner, and delivered into the custody of the Lieutenant of the Tower, there to be kept in close custody, and to be denied pen, ink, and paper, and debarred from having any company to come unto him. And it is referred unto Mr. Pryn, Mr. Serjeant Charleton, Mr. Solicitor General, Serjeant Maynard, Dr. Birkenhead, Mr. Thurland, Mr. Smyth, Mr. Vaughan, and Mr. Clifford, or any three of them, to peruse the seditious, infamous libel by him contrived, and draw up an impeachment against him, and report it to the house at their next meeting.

Oct. 21, 1678. Ordered, that a committee be appointed to examine concerning the murder of sir Edmundbury Godfrey, and to enquire into the manner and means how he came by his death; and likewise to enquire into the particulars of the plot and conspiracy, mentioned in his majesty's speech, against his person and government; which committee was empowered to send for persons, papers and records.

Ordered, That an Address be made to his majesty, by such members of this House as are of his majesty's privy council, humbly to desire his majesty, that all papers which do relate to the plot and conspiracy, mentioned in his majesty's speech, against his person and government, may be communicated to the said committee.

Oct. 23, 1678. Resolved, &c. That the matter concerning the plot and conspiracy, mentioned in his majesty's speech, against his person and government, be heard at the bar of the House.

Ordered, That Mr. Michael Godfrey be forthwith sent for to attend with the papers of examinations, taken by sir Edmundbury Godfrey, and now remaining in his custody sealed up, touching the plot and conspiracy mentioned in his majesty's speech.

Oct. 24, 1678. The papers of examinations taken by sir Edmundbury Godfrey, touching the plot and conspiracy, mentioned in his majesty's speech, which were delivered in by Mr. Michael Godfrey, were opened, and by Mr. Speaker read to the House.

Ordered, That the chairmen of the committee, appointed to examine concerning the murder of sir Edmundbury Godfrey, concerning the plot, mentioned in his majesty's Speech.

Ordered, That Mr. White, alias Whitebread, and Mr. Micho, be removed from the House where they are now, to Newgate, in case they be in a condition fit to be removed.

Oct. 25, 1678. Mr. Speaker acquaints the House, that in pursuance of the order of the House yesterday, he had waited upon his majesty, and acquainted him with the informa-

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tions the House had yesterday received, and that his majesty was pleased to acknowledge the great care of this house, in the preservation of his person and government; and that his majesty was informed, that Mr. White, alias Whitebread, and Mr. Micho, were at present very sick, but that his majesty would send to see them; and if they were in a condition fit to be removed, they should be forthwith sent to Newgate.

Ordered, That the members of this house, who are justices of the peace for the county of Middlesex, do repair to the lodgings of Mr. White, alias Whitebread, and Mr. Micho, and take their examinations touching the plot and conspiracy mentioned in his majesty's speech, against his person and government; and do issue out their warrants for searching their lodgings, and seizing all such papers and writings relating thereto, as shall be there found.

Oct. 25, 1678. *p. m.* Ordered, That the secretaries be desired to move the king, that the keys of Mr. Langhorn's chamber may be delivered by the messengers in whose hands the same are, to the committee appointed by the House to search Mr. Langhorn's papers and writings.

Oct. 26, 1678. Ordered, That an humble Address be made to his majesty, by such members of this house as are of his majesty's most honourable privy-council, to desire his majesty, that Mr. Coleman's Papers and all other papers relating to the plot and conspiracy, mentioned by his majesty in his speech, may be communicated to the House.

Mr. Secretary Williamson informs the House, that in pursuance of the order yesterday, he had attended his majesty, and acquainted him with the desires of this House, that a committee of this House might have leave to search Mr. Langhorn's Papers; and that his majesty was pleased to give leave that the same may be searched, and had appointed two of the clerks of the council to assist the Committee therein; And that his majesty was pleased to deliver him some of Mr. Coleman's papers sealed up, and ordered him to deliver the same to the House; and had also commanded him to acquaint the House, that the rest of Mr. Coleman's papers were at present under examination before the House of Lords; and that so soon as the Lords had done with them, they should be communicated to this House; And the papers were accordingly, by Mr. Secretary Williamson, delivered in, sealed up.

Oct. 29, 1678. Ordered, That his majesty be humbly desired, by such members of this House as are of his majesty's most honourable privy-council, that an inventory, or list of all Mr. Coleman's papers, which have been sorted by the clerks of the council, may be communicated to this House; and that all those papers which are not sorted, may be delivered over to a committee of this House.

Ordered, That a committee be appointed to examine Mr. Coleman, touching the plot and conspiracy mentioned in his majesty's speech.

Oct. 31, 1678. This House being informed that the clerk of the council was attending without, with Mr. Coleman's papers;

Ordered, That the papers be delivered to the clerk of the House, and by him transmitted to the committee appointed to examine the same.

Nov. 2, 1678. Ordered, That the clerk of the council now in waiting, do forthwith attend with Mr. Harcourt's papers and writings; and that all other papers and writings relating to the plot mentioned in his majesty's speech, either in the hands of the secretaries of state, or in the hands of the clerks of the council, be forthwith communicated to this House, according to the leave graciously given by his majesty.

Nov. 22, 1678. Resolved, that an humble address be made to his majesty, by such members of this House as are of his majesty's privy-council, to desire his majesty, that such letters and papers which relate to the plot now under examination, as have not been perused by this House, may be communicated to them.

Nov. 20, 1678. A message from the Lords by sir John Coel and sir Samuel Clark.

"Mr. Speaker, the Lords have received information, that there is a faculty under the seal of Cardinal Barberini, for dispensing with the taking of the oaths, and other things, in the hands of a member of this house, which their lordships desire may be communicated to them."

Sir John Knight acquaints the house, that the paper mentioned by the Lords was found among Mr. Ireland's papers, and he delivered the same in at the clerk's table; which being read by Mr. Speaker,

Ordered, That the said paper be sent to the Lords, and that Mr. Speaker do acquaint the messengers, that when their lordships have perused the same, this House does expect it should be returned again, in order to be entered in the Journal of this House: and the messengers being called in, the said paper was delivered them, and Mr. Speaker acquainted them with the pleasure of the House.

April 26, 1679. Resolved, That an humble Address be made to his majesty, to desire his majesty to give order for the executing of Pickering; and also to give order to the judges, to issue out their warrants for executing the several popish priests, which they have condemned in their several circuits.

May 5, 1679. The lord Russel acquaints the house, that his majesty had commanded him to let the House know, that his majesty is willing to comply with the request made to him by this house concerning Pickering, and that the law shall pass upon him accordingly.

As to the condemned priests, the House of Peers have sent for them, in order (as his majesty conceives) to some examinations.

May 9, 1679. *p. m.* Mr. Hampden reports from the committee appointed to inspect the Lord's Journals, and see, *inter alia*, upon what grounds the condemned Popish priests are sent for, that the committee had inspected the

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Journals, and taken out copies of their proceedings, which he reported to the house.

May 20, 1679. Ordered, That a message be sent to the Lords concerning the condemned Popish priests, sent for up to London from the several county gaols, by order of their lordships.

May 22, 1679. Sir William Franklyn reports from the committee appointed to draw up and prepare a message to be sent to the Lords, concerning the Popish priests condemned in the circuits, that the committee had agreed upon a message to be reported to the House, which he read in his place, and afterwards delivered the same in at the clerk's table, where the same was twice read, and upon the question, agreed, and is as followeth, (viz.)

The House of Commons having made an humble Address to his majesty, that he would be pleased to give Order to the judges, to issue out their warrants for the executing the several popish priests condemned in the several circuits; and his majesty having been graciously pleased to signify to the House of Commons, that your lordships have sent for them, in order (as he conceived) to some examination: and the House of Commons being also informed, that the said priests have, by Order from your lordships, not only been brought out of the several counties, where they were condemned, but continued yet in Newgate, and other prisons, in or about the cities of London and Westminster, by reason whereof the execution of the sentence pronounced upon them is still delayed, do desire of your lordships that the said priests may be forthwith remanded to the several counties where they were condemned, that so they may be executed, according to the judgment passed upon them.

October 25. 1 Will. & Mariæ, the House being informed, that several of the prisoners of the Tower were now bailing in the court of King's-Bench, being brought thither by the governor of the Tower, by virtue of a Habeas Corpus awarded for that purpose, particularly sir Thomas Jenner, Mr. Richard Graham, and Mr. Philip Burton,

Ordered, That sir Thomas Jenner, Mr. Richard Graham, and Mr. Philip Burton, be immediately brought to this House by the governor of the Tower, to answer to such matters as shall be objected against them.

And Mr. Speaker issued his warrant accordingly, and the same was sent by the serjeant at arms attending this House.

Afterwards, the serjeant acquainted the House, that sir Thomas Jenner was bailed, and gone out of court, and that Mr. Graham was bailing in the court: and that notwithstanding he had delivered the warrant to the governor of the Tower, and that he was coming with Mr. Graham, and Mr. Burton.

Ordered, That sir Thomas Jenner be sent for in custody of the serjeant at arms attending this house, to answer to such matters as shall be objected against him.

The house being informed, that Mr. Burton and Mr. Graham were at the door, they were severally called into the bar of the House and charged with the several matters mentioned in the said report, and heard what they could say touching the same.

And being withdrawn, ordered, That Mr. Richard Graham, and Mr. Philip Burton, be committed to the custody of the serjeant at arms attending this House, for several high crimes and misdemeanors objected against them.

And it is referred to, &c.

Jan. 4, 1697. The House being informed, that Mr. Reginald Marriot* had sent to several members of this House, letters, acknowledging that he had been concerned in the irregular indorsement of exchequer bills; and therein offered fully to relate how that notorious practice had been projected and carried on, and in what manner he had been drawn into the same,

Ordered, That the said Mr. Reginald Marriot be summoned to attend this house immediately, and the said Mr. Marriot attending accordingly: he was brought in by the serjeant at arms attending this House to the bar, when he delivered an account of his knowledge of that matter in writing, signed by himself, which he read at the bar, and afterwards delivered into the House.

Ordered, That the examinations taken before the lords of the treasury, relating to the irregular indorsement of the exchequer bills, be laid before this House.

A motion being made, that the House will order that all prosecutions at law against the said Mr. Marriot be stayed during the pleasure of the House; and a debate arising thereupon: Resolved, That the debate be adjourned till tomorrow morning.

Ordered, That the said Mr. Marriot be taken into custody of the serjeant at arms attending this House; and that no person be permitted to converse with, or bring any letters to him, without leave of the House.

Jan. 5, 1697. Mr. Lowndes, according to order, presented to the House several papers relating to the examinations, taken before the lords of the treasury, touching the false indorsement of the exchequer-bills.

The House resumed the adjourned debate of yesterday touching the ordering the stay of any prosecution at law against Mr. Marriot.

Ordered, *nem. con.* That all prosecutions at law against Mr. Reginald Marriot, in relation to the false indorsement of exchequer-bills, be stayed, during the pleasure of this House.

But nothing more was done in this business.

The Lords' Address concerning the Scotch Conspiracy, and for endeavours to be used to settle the Succession there in the Princess So-

* Mr. Reginald Marriot was under prosecution, by order of the lords commissioners of the treasury, and was under bail.

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phia.] March 31. The Lords, after the conclusion of this affair, made the following Address to her majesty in answer to that which the Commons had made against them: (see p. 179), viz.

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, humbly beg leave to acquaint your majesty, that, as soon as all the papers relating to the conspiracy in Scotland were, by your majesty's command, laid before the House; according to our duty, and with that zeal which we have always shewn, where the safety of your person, and the security of your people may be concerned;—We applied ourselves to search into the designs of your enemies, as well by a careful perusal and consideration of the papers, as by appointing a committee to examine the persons who had been taken into custody upon account of the Conspiracy, and others from whom it might be reasonably supposed any light might be gained towards the discovery.—And the committee having made their report to the house; upon mature deliberation of the whole matter, we came to this unanimous Resolution: 'That it 'did appear to us, there has been a dangerous 'Conspiracy carried on, for the raising a rebel-'lion in Scotland, and invading that kingdom 'with a French power, in order to the sub-'verting of your majesty's government both in 'England and Scotland, and the bringing in 'the pretended prince of Wales.'—We do also humbly take leave to offer to your majesty, as our concurrent opinion, that nothing has given so much encouragement to your enemies at home and abroad, to enter into this detestable conspiracy; as that, after your majesty, and the heirs of your body, the immediate succession to the crown of Scotland is not declared to be in the princess Sophia, and the heirs of her body, being Protestants.—Most gracious Sovereign; We, being fully convinced of this important truth, most humbly beseech your majesty, in regard to the safety of your own royal person, the quiet of your reign, and the present and future happiness and peace of your people, to use your royal endeavours, by all such methods as your majesty in your wisdom shall judge most proper, to have the succession of the crown of Scotland declared to be settled upon the princess Sophia, and the heirs of her body, being Protestants. And we do also humbly beseech your majesty to take all other measures, which may best and most effectually conduce to the disappointing and frustrating the designs of your enemies, and of such of your traitorous subjects as are engaged with them in this dangerous conspiracy against your majesty, for the utter subversion of your government. And we do most heartily and unanimously assure your majesty, that, when your wise endeavours for the settling the succession in Scotland shall have taken the desired effect, we will do all in our power to promote an entire and compleat Union between the two kingdoms of England and Scotland, for their mutual security and advantage."

The Lords' Address for the Commissions of the Peace to be reviewed.] March 31. The Lords presented the following Address to her majesty:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, having taken into our consideration the great alterations that have been of late made in the commissions of the peace, do most humbly beg leave to lay before your majesty, that it is our opinion, that no person that refused to take the oaths to the late king is fit to be in the commission of the peace under your majesty: and we do further humbly beseech your majesty, that you will be graciously pleased to order the commissions of the peace to be reviewed; and to give direction, that no person or persons be continued, or put into the commission of the peace, but men of quality and estates, and of known affection to your majesty's title and government, and the Protestant succession and the Church of England, as they are both established by law; and that your majesty will be pleased to order, that such be restored who are so qualified, and have been turned out without just cause."

The Queen's Answer to the Addresses of the Lords.] To this Address, her majesty gave this Answer:

"My Lords; 1. I hope, none of my subjects have any desire to lessen my prerogative; since I have no thought of making use of it but for their protection and advantage.—I look upon it as a great misfortune, when any misunderstandings happen between the two houses of parliament; which cannot be, without so much prejudice to the public, that I shall never omit any thing in my power to prevent the occasions of them.

"My Lords; 2. This Address consists of so many parts, that I cannot take notice of them now but in general. I will consider the several particulars, and give such directions as shall be proper for the safety and welfare of the nation.

"My Lords; 3. I have some time since declared my intentions of endeavouring the settlement of the Protestant succession in Scotland, to my servants of that kingdom, as the most effectual means for securing their quiet and our own, and the readiest way to an entire Union betwixt both kingdoms; in the perfecting of which, it is very desirable, no time should be lost.

"My Lords; 4. I have always thought it reasonable, that the commissions of the peace should be filled with gentlemen of the best quality and estates in their country.—And it is as fit they should be of known loyalty and affection to the government, to the Protestant succession, and the Church of England as tablished by law. And I shall give directions according to this rule."

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PROCEEDINGS OF BOTH HOUSES IN THE GREAT CASE OF ASHBY AND WHITE.*

PROCEEDINGS OF THE HOUSE OF COMMONS.] About this time the Great Case of ASHBY and WHITE came on in the House of Commons.

Matthew Ashby, having commenced and prosecuted an action at common law against William White, mayor of Aylesbury, and others, the constables of that town, for refusing to receive his vote at an election of burgesses to serve in parliament, for the said borough; but

* "These differences between the two Houses were still heightened by the Lords interposing in an affair, the cognizance of which the Commons pretended to belong solely to themselves. There had been great complaints long made, and these had increased within a few years, of great partiality and injustice in the election of parliament-men, both by sheriffs in counties, and by the returning officers in boroughs. In Aylesbury in Buckinghamshire the return was made by four constables; and it was believed, that they had made a bargain with some of the candidates, and then managed the matter so, as to be sure, that the majority should be for the person, to whom they had engaged themselves. They canvassed about the town, to know how the voters were set, and they resolved to find some pretence for disabling those, who were engaged to vote for other persons than their friends, that they might be sure to have the majority in their own hands.

"And, when these matters came to be examined by the House of Commons, they gave the election always for him, who was reckoned of the party of the majority, in a manner so barefaced, that they were scarce out of countenance, when they were charged for injustice in judging elections. It was not easy to find a remedy against such a crying abuse, of which all sides in their turns, as they happened to be depressed, had made great complaints; but, when they came to be the majority, seemed to forget all, that they had before exclaimed against. Some few excused this on the topic of retaliation, alledging, that they dealt with others as they dealt with them or their friends. At last an action was brought against William White, and the other constables of Aylesbury, by one Matthew Ashby, who had been always admitted to vote in former elections, but was denied it in the last election. This action was tried at the assizes, and it was found there by the jury, that the constables had denied him a right, of which he was undoubtly in possesion, so that they were cast with damages. But it was moved in the Queen's Bench to quash all the proceedings in that matter, since no action did lie, or ever had been brought upon that account. The judges Powel, Gould, and Powis, were of opinion, that no hurt was done to Ashby; that the judging of elections belonged to the House of Commons: That, as this action was the first of its kind, so, if it was allowed, it would occasion an infinite number of suits, and put all the officers, concerned in that matter, under great difficulties. Chief justice Holt alone differed from the rest. He thought this a matter of the greatest importance, both to the whole nation in general, and to every man in his own particular. He made a great difference between an election of a member, and a right to vote in it. That the House of Commons were the only judges of the former, whether it was rightly managed or not, without bribery, fraud, or violence; but the right of voting in an election was an original right founded either on a freehold of forty shillings a year in the county, or on burgage-land, or prescription, or by charter, in a borough. These were all legal titles, and, as such were triable in a court of law. Acts of parliament were made concerning them, and, by reason of these, every thing relating to those acts was triable in a court of law. He spoke long and learnedly, and with some vehemence, upon the subject; but he was one against three, and therefore the order of the Queen's Bench was given in favour of the constables. The matter was upon that brought before the House of Lords by a Writ of Error; the case was very fully argued at the bar, and the judges were ordered to deliver their opinion upon it, which they did very copiously. Chief Justice Trevor insisted much on the authority, that the House of Commons had to judge of all those elections. From that he inferred, that the Commons only could judge, who were the electors. Petitions were often grounded on this, that in a poll some were admitted to a vote, who had no right to it, and that others were denied it, who had a right; so that in some cases the Commons were the proper judges of this right, and, if they had it in some cases, they must have it in all. From this he inferred, that every thing relating to this matter was triable by them, and by them only. If two independent jurisdictions might have the same cause brought before them, they might give contrary judgments in it; and this must breed great distraction in the execution of those judgments.

"To all this it was answered, that a single man who was wronged in this matter, had no other remedy but by bringing it into a court of law; for the House of Commons could not examine the right of every voter: If the man, for whom he would have voted, was returned, he could not be heard to complain to the House of Commons, though in his own particular he was denied a vote, since he could not make any exceptions to the return, and therefore must bear his wrong without remedy, if he could not bring it into a court of law. A right of voting in an election was the greatest of all the rights of an Englishman, since by that he was represented in parliament. The House of Commons could give no relief to a man wronged in this point, nor any damages; they could only set aside one, and admit of another return. But this was no redress to him, who suffered the wrong; it made him the less considered in his borough,

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being cast, he brought a Writ of Error into the House of Lords, who, upon strict examination of witnesses, and upon mature deliberation, gave Judgment in favour of Ashby. The Commons looking upon these Proceedings as an incroachment on their privileges, proceeded as follows:

and that might be a real damage to him in his trade. Since this was a right inherent in a man, it seemed reasonable, that it should be brought, where all other rights were tried, into a court of law. The abuse was new, and was daily growing, and it was already swelled to a great height. When new disorders happen, new actions must lie, otherwise there is a failure in justice, which all laws abhor. Practices of this sort were enormous and crying; and if the rule made in the Queen's Bench was affirmed, it would very much increase these disorders by this indemnity, that seemed to be given to officers, who took the poll.

"After a long debate, it was carried by a great majority to set aside the order of the Queen's Bench, and to give judgment according to the verdict given at the assizes. This gave great offence to the Commons, who looking on these proceedings as incroachments on their privileges, after having inspected the Lords' Journals, resolved, "1. That, according to the known laws and usage in parliament, it is the sole right of the Commons of England, in parliament assembled (except in cases otherwise provided for by act of parliament) to examine and determine all matters relating to the right of election of their own members. 2. That neither the qualification of any elector, or the right of any person elected, is cognizable or determinable elsewhere than before the Commons. 3. That the examining and determining the qualification or right of any elector, or any person elected to serve in parliament, in any court of law, or elsewhere, than before the Commons, will expose all mayors, bailiffs, and other officers, who are obliged to take the poll, and make a return thereupon, to multiplicity of actions, vexatious suits, and insupportable expences, and will subject them to different and independent jurisdictions, and inconsistent determinations in the same case, without relief. 4. That Matthew Ashby, having, in contempt of the jurisdiction of this House, commenced and prosecuted an action at common law against William White and others, the constables of Aylesbury, for not receiving his vote at an election of burgesses to serve in parliament for that borough, is guilty of a breach of the privileges of this House. 5. That whoever shall presume to commence or prosecute any action, indictment, or information, which shall bring the rights of the electors, or persons elected to serve in parliament, to the determination of any other jurisdiction than that of the House of Commons (except in cases specially provided for by act of parliament) such person or persons, and all attornies, solicitors, counsellors, and serjeants at law, soliciting, prosecuting, or pleading in any such case, are guilty of a high breach of the privilege of this House." And they ordered these Resolutions to be fixed upon Westminster-Hall-gate, signed by the clerk. However, they did not think fit to send for Ashby, who had sued, or rather, in whose name the suit was carried on, but let the matter fall as to him, under a shew of moderation and pity, and rested it upon the general votes. On the other hand, the Lords appointed a Committee to draw up the state of the Case upon the Writ of Error wherein Ashby was plaintiff, and William White and others defendants; which Committee having made their report, their lordships resolved, "1. That, by the known laws of this kingdom, every freeholder, or other person having a right to give his vote at the election of members to serve in parliament, and being wilfully denied or hindered so to do by the officer who ought to receive the same, may maintain an action in the queen's courts against such officer, to assert his right and to recover damage for the injury. 2. That the asserting, That a person having a right to give his vote at an election, and being hindered so to do by the officer who ought to take the same, is without remedy for such wrong, by the ordinary course of law, is destructive of the property of the subjects, against the freedom of elections, and manifestly tends to encourage corruption and partiality in officers, who are to make returns to parliament, and to subject freeholders, and other electors, to their arbitrary will and pleasure. 3. That the declaring Matthew Ashby guilty of a breach of privilege of the House of Commons, for prosecuting an action against the constables of Aylesbury, for not receiving his vote at an election, after he had, in the known and proper methods of law, obtained a Judgment in parliament for recovery of his damages, is an unprecedented attempt upon the judicature of parliament, and is, in effect, to subject the law of England to the votes of the House of Commons. And, 4. That the deterring electors from prosecuting actions in the ordinary course of law, when they are deprived of their right of voting, and terrifying attornies, solicitors, counsellors, and serjeants at law, from soliciting, prosecuting and pleading in such cases, by voting their so doing to be a breach of privilege of the House of Commons, is a manifest assuming a power to controul the law, and hinder the course of justice, and subject the property of Englishmen to the arbitrary votes of the House of Commons." The Lords likewise ordered the lord-keeper to send a copy of the Case, and of their Resolutions, to all the sheriffs of England, to be communicated to all the boroughs in their counties. The Commons

Debates in the House of Commons, upon the Great Question, Whether an Action lies at Common Law for an Elector, who is denied his Vote for Members of Parliament?

January 17, 1704. The House being informed, That there had been an extraordinary Judg-

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ment given in the House of Lords upon a Writ of Error from the court of Queen's-bench, in a Cause between Matthew Ashby and William White, wherein the Privileges of the House were concerned, appointed some of their members to search the Journals of the House of Lords as to their Proceedings upon the said Writ of Error, and to report the same to the House. They also ordered the same members to inspect the Journals of the House of Lords, as to what they had done formerly in the Case of Soame and Barnardiston; and likewise to report that matter to the House.

January 18. The House ordered, that the members who were appointed to search the Journals of the House of Lords as to their Proceedings upon a Writ of Error from the court of Queen's-bench, in the cause between Ashby and White, should likewise search the several offices of the court of Queen's-bench, for the Record of the Judgment, and all other Proceedings there in that Cause, and report the same to the House.

January 20. Ordered, That the Report, with relation to the Proceedings of the House of Lords and Court of Queen's-bench, in the Case of White and Ashby, should be made on the morrow morning.

January 21. Mr. Freeman reported, That the members appointed to search the Lords Journals, touching the Proceedings upon a Writ of Error from the court of Queen's-bench, in a Case between White and Ashby, and what the Lords had done in the Case of Soame and Barnardiston, had searched the same accordingly; and he read in his place what they found therein, and he delivered the same at the table, where the same was read. And Mr. Brewer also reported, That the members appointed had also searched the offices of the court of Queen's-bench, for the Judgment and Proceedings there in the Case of Ashby and White, and had obtained a copy of the record of the Judgment, which he delivered in at the table.

The *Speaker*, (Mr. Harley, afterwards earl of Oxford) after the Reports were over, told the House, That he thought it to be his duty to put them in mind of the great consequence and importance of this matter, and that it behoved them to take very great caution in their proceedings, not only that the grounds and foundation be good, but also that the method and manner of treating it be according to ancient usages and custom of parliament: and to that end he desires the House would give him leave to state this matter, as it appeared to him, and according to what occurred upon the sudden to his memory, that the House might take proper methods upon this occasion.

The *Speaker* then proceeded to give the House an account of the state of elections by custom of common law, and that the great alteration in point of election was in the beginning of Hen. 4's time, since whose reign the returns for parliament have been made by indenture. That by the statute of 7 H. 4, there is a method prescribed of election and return, and the occasion he took to be this: H. 4 came to the succession of the crown by the deposition of R. 2, when the parliament was sitting. That parliament was continued to H. 4's time: for though in the rolls it was called a new parliament, and returns were made as by the sheriffs of the counties, and also by the boroughs, as if it was a new parliament; yet it was the same parliament, for they were the same men, and there were too few days between one parliament and the other, to have a new election. But Henry 4, having made such an extraordinary step, he would not leave it as a precedent to be found out. Afterwards, when times were a little more settled, in his 7th year, and that practice was necessary to be condemned, it was provided, at the great complaint of the Commons, that it should be done by indenture, that the same or like deceit should never be put upon the kingdom afterwards, and one part was to be kept below. This continued for about four years, when there was another complaint of the proceedings of sheriffs (he said he need not mention the regulation of 40*s.* a year, and some other things which are not directly to this case); and upon that there was a penalty put upon the sheriffs of 100*l.* which he took to be the 11th year; and it was put under the inquiry of judges of assize, and so it stood all that king's reign till H. 5. And then there was another law made for electors and elected, that they should be all resident. Some of the law books give a pretty construction of it, that though there was such a law, yet the custom of parliament was to be the rule. But he said he thought it to be a better construction, that it being then reckoned a service, and a hard service, none but residents in the borough were compellable. Thus it continued till about H. 6's time, and then if the sheriffs had made a wrong return, if indicted or prosecuted at the assizes, there was to be immediate execution for this 100*l.* without any traverse. Upon this there was a statute to allow the sheriff a traverse for this 100*l.* and that he should not be liable to it till he was legally convicted; so it stood till about a year afterwards, that the parliament thought it necessary to make another act about 8 H. 6. and then there was great complaint again of the ill proceedings of sheriffs. And the law was enforced again, and it was declared who should be the electors, and the sheriff was made liable to the penalty of

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were highly provoked with this, but they could not hinder it. The thing was popular, and the Lords got great credit by the Judgment given by them, which let the people of England see, how they might be redressed for the future, if they should meet with the injustice, the partiality, and other ill practices, that had appeared of late in elections, even beyond the examples of former times." Tindal.

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100*l.* and imprisonment without bail or mainprize, and it was inquirable by the judges of assize. Another statute was made the 10 H. 6, which enforceth the manner of elections, so it stood. Then 23 H. 6, there are two statutes, one relating to the wages of knights, citizens and burgesses, and how they should be levied; another reciting the statute of H. 5. and H 6. and it says, that there were not sufficient penalties on sheriffs, who, besides that sometimes they sent no writs to boroughs, made insufficient returns, &c. And the mayors and bailiffs were guilty of the same; and therefore over and above the first penalty of 100*l.* they laid another penalty of 100*l.* more, which was to the plaintiff, with costs of suit; and this was to be tried before the judges of assize, and the courts at Westminster, and at the sessions, and the action is to lie either for a knight, or burgess, or any other person that would bring the same, but within a time limited, three months from the commencement of the parliament. Thus elections stood in point of law, till the modern alteration within every body's memory, and he hoped whatever time gentlemen took this matter into consideration, they would do it as became the House of Commons, and examine all particulars, as well as the judgments of law, and they would do what became a House of Commons, and that nobody would see the dignity of the House of Commons impaired. And however differences were between them in other things, they would be unanimous in preserving the rights of the Commons, and of doing it in a right and justifiable manner: and offered to their consideration, whether it would not be best to proceed in the old method, by going into a grand Committee for the Courts of Justice to consider this matter, and that by taking this course, they would walk in the steps of their predecessors, and avoid many inconveniencies, which were easily to be foreseen would happen, by taking another course.

But it being moved and seconded, to consider of the said Reports in a Committee of the whole House, the question was put, and carried, That the House on Tuesday then next following, would resolve itself into a Committee of the whole House, to consider of the said Reports.

Ordered. That the same members do also search the officers of the court of Queen's-bench, what Proceeding were there in the Case of Barnardiston and Soame, and for a copy of the record of the Judgment in that Case, and report the same to the House.

The Grand Debate thereon.

Jannary 24. Mr. Brewer reported, that the members appointed to search the offices of the court of Queen's-bench, as to what proceedings were there in the Case of Barnardiston and Soame, and for a copy of the Judgment in that Case, had searched the same accordingly; and he presented to the House a copy of the said Judgment, the consideration whereof was referred to the committee of the whole House, who were appointed to consider of the Report relating to the Case of Ashby and White.

January 25. This day the House resolved into a committee of the whole House to take into consideration the Report of the Lords Journals touching their lordships proceedings on a Writ of Error in the Case between Ashby and White, & al. and also touching their lordships proceedings in the matter mentioned in the Petition of Mr. Bathurst; in which last Case of Mr. Bathurst, as it was alledged, their lordships had taken upon them an original Jurisdiction, in controuling an order made by the court of exchequer for the filing of a record that had been several years lodged in Mr. Granges' chamber of the Temple. But the committee in the first place agreed to go on with the business of Ashby and White; and the debate of that matter was carried on with great order and temper, and was to the effect following.

Mr. Freeman in the Chair.

Mr. *Brewer*. Sir, we are now in a Committee of the whole House upon the consideration of the Case of Ashby and White; which I take to be a matter of the last consequence to the privileges of the House of Commons, which I think are dangerously invaded by the Lords pretence of Judicature upon them. But, as I don't doubt every gentleman here thinks it his duty to support and maintain the just rights and privileges of this House, as intrusted by those who sent us hither; so we shall do it in such a manner, as will consist with, and maintain a due correspondence with the Lords. I shall open the true state of the case, with the Judgment given upon it in Westminster-Hall, and some of the reasons, which, in my opinion, support that Judgment; and then speak to the reversal of it by the Lords, (which, with submission, I take to be a new attempt of their lordships, to bring this, and all our privileges before them in Judgment) which I believe, neither this, nor any other House of Commons will endure, or want will or power to relieve themselves against such an usurpation.—The plaintiff declares against the defendants, that whereas, on the 26th day of December, in the 12th year of king William the third, a writ issued to the Sheriff of Bucks, commanding him to cause to be elected two Burgesses for Aylesbury; the sheriff directed his precept accordingly to the Constables, to whom it belonged to execute that precept; and the burgesses being assembled, and the plaintiff duly qualified to give his vote, he offered to give it for sir Thomas Lee and Mr. Mayne; but the defendants, falsely and maliciously intending to defeat him of that privilege, did refuse to receive it; which he lays to his damage, and issue being joined, that cause was tried at the assizes, and a verdict for the plaintiff, and 5*l.* damages.—The fact being thus tried, the matter in hand (that is to say, whether this action is maintainable by the rules of law or not) was

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often argued by counsel learned at the bar, and afterwards considered by the judges in the Queen's-bench; and upon their mature consideration, Judgment was given for the defendants, that is, that the plaintiff had no good cause of action.—Now I understand the chief reason was, for that the right of voting in such cases hath ever been, and ought to be cognizable and determinable by the House of Commons, and not elsewhere; for by the law and usage of parliament, the House of Commons have heard and determined the right of their own elections, and consequently and necessarily the right of the electors to vote; and for this purpose, at the opening of all parliaments a committee of elections is nominated of members of our own, to hear and determine of such right of elections, to whom petitions (after presented to the House) are referred; and if any elector had been refused his vote in the country he is, notwithstanding, allowed his vote here in case he had right; and it shall avail the candidate as much as if the vote had been received below: and the committee, after judgment upon the case, report to the House all the special matter, and their resolutions; where the whole matter may be afresh debated, and the House agree or disagree with the committee, as shall appear reasonable. So that this determination and method of trial hath two digestions, and more likely to be well founded than that of a common jury, who we know are made by Under-Sheriffs, and often of per-ons so corrupted or ignorant, that new trials are often granted by the judges. But it may be objected, that no single petitioner will be received by the House: in answer to this, I say he may; and I have known petitions touching elections preferred by very few persons, and by the same reason may by one: I am sure we have no order of the House against it; and if gentlemen object, that no single petition of this nature was ever received, if they will shew me when it was offered, I will shew them when it was received; I believe they cannot shew me it was ever refused. But I would ask if they can shew me that such an election as this was ever brought against the officer, as in this case. I am sure they cannot, and which, in our law, is allowed a good argument, that no action lies; especially it being a case which cannot be presumed, but may happen very often, almost in every election: And I believe there never was a parliament called but frequent occasions might have been taken for such an action, and better founded than this of the Plaintiff's, who was a poor hostler, and removed from that parish by the order of two justices, as being likely to become chargeable. But it seems our ancestors reposed a confidence in their representatives to have right done them in such case: They sought not relief from common juries. And what is now done by this attempt? Why, the judges, upon their oaths say, that they have no cognizance of the cause; but notwithstanding the Lords say they have no cognizance, and reverse that judgment; and the consequence of that is, the Lords will judge of this our undoubted privilege, never 'till now drawn into question; and by that reason and law, the Lords may sit in judgment upon all other our privileges, and thereby we become depending upon them; which some without doors, I find, are willing to submit to: for that they say, where one is deprived of his right he ought to have damages, which the House of Commons cannot give. I allow, where one is injured he shall have relief, by our law, in one place or other; but we have not one shop to cure all distempers. The Queen's-bench relieves chiefly in matters criminal; the Common-Pleas in civil pleas between party and party; the Exchequer in matters of revenue; Chancery in cases of fraud; and in the Case in question, relief may be had (as said before) in the House of Commons, by law and usage of parliament, which all lawyers know, is a very considerable, known and approved part of the laws of England. And though no damages are usually given here, yet the officer, for misbehaviour, and arbitrarily refusing votes who had right, may be, and has been punished, by the power and authority of the house, and even at Common-Law; as when an alderman is refused by the Mayor, or other person who ought to admit him, the remedy is by Mandamus, which though it is chargeable to the person injured, yet I do not know any damages are given him, otherwise than that the party injured is admitted; which is a relief, the alderman having what he complained for: And so the elector; his vote is allowed as good as if the constable had took it. And, by the way, give me leave to observe how small a relief the new devised remedy, by damages, is: I dare affirm and demonstrate, that the Plaintiff, in the case in question, is above 100*l.* out of pocket, more than the costs and damages recovered, which I take to be *infælix victoria*. But if gentlemen say, the poor hostler could not expend so much, I believe so too, but if at the expence of any great man, I think it less justifiable, to make a tool of that poor fellow, perhaps in order to enlarge a jurisdiction.—I must confess I take the case of the elected to be much stronger than that of the electors; and yet, in such cases, relief at Common-Law was always denied, as in the case of sir Samuel Barnardiston and Soame, there the Sheriff made a double return; and in the Case of Mr. Onslow*, a false return; and the persons injured

* The Case of Denzil Onslow, esq. was tried at the Assizes holden for Surrey on Wednesday the 20th of July, 1681, at Kingston upon Thames, before the Lord Chief Justice of England, sir Francis Pemberton.

The DECLARATION.

Denzil Onslow, esq. had brought his action on his Case in the court of Common Pleas, against William Rapley, late bailiff of the borough of Haselmere; thereby setting forth, that Haselmere was an ancient borough

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by those returns were put to very great charges, and kept long from their seats in the House, and yet, at Common-Law could never obtain a relief. The Judges were of opinion (as they

that used to send burgesses to parliament, that a writ issued to the sheriff of Surrey, to cause knights and burgesses to be chosen for the parliament to be held the 17th of October, anno 31 Caroli regis. The sheriff made a precept to the borough of Haselmere, to chuse burgesses. That, August 31, Anno 31 Caroli secundi, the Plaintiff was duly elected one of the burgesses, and returned, by indenture, with sir William Moore. That the Defendant, intending to deprive the Plaintiff of the honour and benefit of his election, did, by another indenture, return sir William Moore, bart. and James Gresham, esq. as duly elected: whereby the Plaintiff was hindered from sitting in parliament, and put to great charge to assert his right, to his damage of 200*l.*

After Not Guilty pleaded, upon evidence given on both sides, at the trial, the Case appeared to be thus:

The Case and Evidence.

At the election in this borough for the last parliament at Westminster, there were four competitors, viz. sir Wm. Moore, the Plaintiff, Mr. Dorington and Mr. Gresham. The electors meeting and voting, the poll was demanded, granted, and taken: The Defendant took time to peruse and consider the poll until the afternoon; and having considered of it, came again to the place of election, and declared the Plaintiff and sir William Moore had the majority of the ancient and lawful burgesses, and proclaimed those two to be duly elected, and sealed an indenture thereof accordingly; and Mr. Gresham being then present, opposed not the same, but desired that sir William Moore (with regard to his title and quality) might be first named in the indenture, although (as was then admitted) Mr. Onslow had the majority of him; which was done accordingly, Mr. Onslow readily and generously consenting to the doing thereof.

That about a week or a fortnight after, the bailiff was prevailed with to seal and return another indenture, whereby sir William Moore and Mr. Gresham were returned as elected. Whereupon Mr. Onslow's right to sit was controverted, and he suspended from sitting; and was put to his Petition to the House of Commons, who, upon hearing of the whole matter, and consideration had of the indirect dealing of the Defendant and others, declared Mr. Onslow duly elected, and committed the Defendant; and Mr. Onslow sate in the last parliament at Westminster for that borough, and that Mr. Onslow had been at great charges to clear his election.—First, the Defendant's counsel insisted on the statute of 1 H. 5, c. 1, That a person elected must be free, resiant, and dwelling within the borough; to which it was answered, and resolved by the court, that little or no regard was to be had to that ancient statute, forasmuch as the common practice of the kingdom had been, ever since, the contrary; and it was the way to fill the parliament house with men below the employment: and the objection was disallowed. Secondly, it was agreed unto by the parties, and by their counsel on both sides, that the right of choice of burgesses for this borough to parliament, lay in the burgage freeholders resiant, and inhabiting within the borough, and none others.

Then the Plaintiff's counsel insisted and proved, that there voted for him 13, having good and unquestionable votes; unto one whereof, the Defendant's counsel excepted, for that he, before the election, had mortgaged his estate; which the party himself, present in court, denied upon oath: and the court was of opinion, it had not been a good objection, if true, so long as the mortgager continued the possession, and had the benefit of redemption in him.

The Defendant's counsel said, there voted for Mr. Gresham 14, having good votes: which, if so, would have made a majority; but the Plaintiff's counsel excepted to six of the 14, as being no good electors, for one of them lived not within the borough; which was proved, by ancient reputation and perambulation, that the house where he lived was left without the bounds. As to the other five, the objection was, they were no real burgage-tenants; and that, if any conveyances had been made to them of burgage lands, they were lately made, and fraudulently contrived, to make votes against an election: and because the Defendant's counsel could not deny but these conveyances were lately made, the Court put the Defendant to produce and prove them, which was done; and upon reading of them, it appeared, two of the five were made after the test of the parliament writ, and three of them in order to carry on sir Philip Floyd's election in the borough, about five years since. Two of them were conveyances by one Vallor, who had a garden about 30 rods, and conveyed to each of his two sons a piece of it, containing about ten rods, of which they had made jointures to their wives, each share being worth, at best, 2*s.* per annum. Another of the five was made by the father, who had a close containing two acres, and made a conveyance to his son of about a quarter of an acre, which always after lay undivided, and was constantly enjoyed by the father. Another conveyance was made by a son-in-law to his father-in-law, of a cart-house. The last conveyance was to one Jackson, of a little tenement: but it was proved that collateral security given to re-convey, and that the grantor had repaired. As to all five, there appeared several badges of fraud, as a continued possession in the grantors, &c. and the several confessions of the purpose and intent of making them for the elections.

The court censured such proceedings as evil and unlawful; Mr. W. (Recorder of G.) one of the Defendant's counsel, stood up to justify these proceedings, and said, it was part of the

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now are in the case of the elector) that it was a matter of parliamentary cognizance, of which they were not competent judges. And should we now admit this matter to be determined by

constitution of our government to do so. At which the Court seemed very angry, and wondered that any one, especially a man of the gown, should say so, and said, Do you think our government hath no better constitution? with which the gentleman not being satisfied, he was told by the Court, he deserved to be taken notice of for saying so, and that he seemed to have advised to have the thing done.

To conclude the evidence, the Plaintiff's counsel delivered into Court ten or twelve several conveyances, that were proved by the party that wrote them, to have been made by Mr. G.'s order, to make so many votes at a former election, wherein Mr. Gresham was concerned; and the election being over, they were cancelled and delivered up; concerning which, Mr. Gresham endeavoured to say something by way of excuse, but was told by the Court, it was too bad to be excused; and it was well an act of general pardon had passed since this was done, else he should have answered it in another place. During the whole time of the trial, the same was managed with great patience and circumspection; for, so soon as the cause was opened by the Plaintiff's Counsel, the Court perceiving the nature of it, commanded silence and attention in the jury: The Court declaring it was of great weight, as great as any that ever came there to be tried. And the evidence being fully given on both sides, the Court, by way of direction, told the Jury, that the Plaintiff need not, as this case is, prove any express malice in the Defendant; for it shall be intended when a man shall do such an evil thing as this is, contrary to his own knowledge and declaration made upon the election, and afterwards also; (for it was proved against him, by one or two witnesses, that a little time before this trial, he did confess Mr. Onslow duly elected, and that he had told Mr. Gresham what would come of it.) And the Court further told the Jury, that this was a cause of moment, and deserved more than ordinary consideration; and that the making votes by such means was a very evil and unlawful thing, and tended to the destruction of the government, and debauching of parliaments: and although some of the conveyances were made some time before this election, to serve a turn at a former choice; yet that they were fraudulent and void in their creation, and ought not to be made use of at any time against any other person; and that it was senseless to think such practices were part of the constitution of the government, or to imagine that persons whom we intrust with our lives and fortunes ought to be made and chosen by such evil devices: and that such practices deserve to be severely punished, and directed the Jury to give signal damages. Whereupon the Jury withdrew, and after a short stay, gave a Verdict for the Plaintiff, and 20*l.* damages.

And the Court, in the course of the evidence, having observed one Billinghurst to be much concerned in the proof and management of their fraudulent deeds, conceived him to be privy to much of the practice thereabouts, and commanded him to stay in the court till the jury had given in their verdict: which when they had done, the Court required him to find sureties to appear in the Court of King's Bench next Michaelmas-Term, to answer to an information touching the said misdemeanor: and in the mean time to be of good behaviour, which accordingly he did do; and sir William Moore, and sir George Woodruff, whom he had served last election at Haselmere, were his sureties. And the Court required the Plaintiff, Mr. Onslow, to see that an information be preferred; which he promised to do: And the Court declared it was a very great offence, and should be severely punished.

I shall give a few instances of what the House of Commons have done in former ages to punish and prevent evils about Elections.

1. Anno 20 Jacobi, doctor Harris, minister of Blechingley in Surrey, for misbehaving himself by preaching, and otherwise, about election of members of parliament, upon complaint, was called to to the bar of the House of Commons, and there as a delinquent, on his knees, had judgment to confess his fault there, and in the county, in the pulpit of his parish church on Sunday before the sermon.

2. Anno 20 Jacobi, Ingrey, under-sheriff of Cambridgeshire, for refusing the poll, upon the promise of sir Thomas Steward to defend him therein, kneeling at the bar, received his judgment, to stand committed to the serjeant at arms, and to make submission at the bar, and acknowledge his offence there, and to make a farther submission openly at the quarter sessions, and there also to acknowledge his fault.

3. Anno 20 Jacobi, the mayor of Arundel, for misbehaving himself in an election, by putting the town to a great deal of charge, not giving a due and general warning, but packing a number of electors, was sent for by a warrant, and after, ordered to pay all the charge; and the House appointed certain persons to adjust the charges.

4. And lastly, 3 Car. 1. Sir William Wrey and others, deputy-lieutenants of Cornwall, for assuming to themselves a power to make whom they pleased knights, and defaming those gentlemen that then stood to be chosen, sending up and down the country letters for the trained-bands to appear at the day of election, and menacing the country, under the title of his majesty's pleasure; had judgment given upon them to be committed to the Tower. 2. To make a recognition of their offence at the bar of the House, upon their knees; which was done. 3. To make a recognition and submision at the assizes in Cornwall, in a form drawn by a committee. See this Case in a folio pamphlet, printed 1681.

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the courts below, what great confusion and inconvenience would follow? I presume no body will pretend to exclude the jurisdiction of the House of Commons, in his Case; and yet, if they judge one way, and the courts below another, and neither have power to supersede or reverse the determination of the other, under what uncertainty will the officers and all parties concerned lie? Whereas, in other cases, where one court errs, a superior court reverses; but here, both adjudications shall stand together, though inconsistent the one with the other.—But it is said, in this Case, the action lies, because the Defendant refused the Plaintiff's Vote, *maliciose et falso*. I take those to be words of course, and no evidence of that is given to the jury.—Sir, to conclude, the House lately passed a Resolution, that no Lords should intermeddle at any of our elections: But if this be allowed as law, they may at the last, judge and make (for aught I know) all our elections. But for my part, I am for continuing the possession of this, and all our other just privileges, as derived down to us from our predecessors, who ever enjoyed and exercised them as now we should; and I hope before we rise we shall think of some remedies, and not lie wholly under the power or mercy of the Lords.

Sir *Thomas Powis*. Mr. Freeman; I believe I should hardly have rose up in this matter, but that I think it more particularly my duty to speak to this thing, if it were possible, than any other; for in truth, I have had a more particular opportunity of knowing the nature of this case, and the proceedings in it, and what the consequences of it will be, than many others have had.—I must acquaint you I was of counsel in this cause, in the House of Peers, upon the Writ of Error with White, and the other constables that were prosecuted in this action, and did to my power defend what I took to be the rights and privileges of this house.—I would stand right in the opinion of every body; for what I did there for my client, in the course of my profession, I do not think myself obliged to maintain here: for then it was my duty to do my best for him as his counsel, but now he hath done with me, and I have done with him, in this place.—It hath been to the great honour of some Judges in Westminster-Hall, who have argued in cases below, at the bar, and have been brought on the Bench before the cause hath been determined, that they have argued at the bar one way, and when upon the Bench, have given Judgment another way, against their very clients, and thereby have done their duty in both places.—Now, when I have said this, I hope I do stand fair and clear, that I do now speak as a member of the House of Commons.—You are upon a point which I wish had never happened, for there is nothing I enter upon with greater reluctancy than what looks like a dispute with the other House; for no man pays a greater honour to the House of Peers, and to every peer there, than I do; however, as I am instituted, I shall endeavour to maintain the rights of this House. And I do say, if the Peers of England can determine all our properties at law, upon Writs of Error, and all our rights in equity upon Appeals; and if they can determine our elections in consequence of this action, as I am of opinion they may, if this action prevails, they have a greater power than ever that House had in the days of their noble ancestors, when they were in the greatest grandeur. I will shew what will be the ill consequences, and I think it very fit for you to take this matter into consideration, if there be any way to come at it. First, I cannot deny but, generally speaking, a man has right to bring his action at law; but then I hope, though a man hath a right to bring an action, yet he cannot bring it in detriment to any other man's privilege; for if a member of this House be sued in time of privilege, though a person have a right to such action, yet he cannot prosecute it in breach of the privilege of such person, much less can a man prosecute an action in breach of the privilege of this House. And suppose this should come before the Lords in question, by Writ of Error, and they should be in possession of the cause, sure every determination of the Lords, upon a Writ of Error, is not without more ado to be conclusive to the Commons in their rights and privileges, so as that they may not take an alarm, and be concerned if all their privileges are about to be taken from them. Suppose any member of this House, (as I think by the privileges of this House he may,) should, in this House, have just occasion to take notice of some great misdemeanor in any great officer of the crown, and should assert matters highly intrenching on the honour of a peer of England; and suppose, when the parliament was up, the peer should bring his action of *scandalum magnatum* against the member, at law, for words that he had spoken here, and lay them as spoken elsewhere, for in a transitory action he may, and he should justify that they were spoken in the House of Commons, where, by the privileges of the House, freedom of speech is allowed; and suppose Judgment in that case, as in this it was, should be given against the plaintiff, and afterwards this, by a Writ of Error, should be brought before the the Peers, and they should reverse this judgment, and give Judgment for the Plaintiff; can any thing be more destructive to the constitution of parliament, if such a case as this should happen? And must the Commons in such case sit down under it?—Suppose any man should presume to arrest any member as he was going into the House of Commons, nay, the Speaker himself, and afterwards he is committed by order of the House, and the person committed should bring his action for taking him into custody, and the serjeant who took him into custody should plead this matter, and the judges give Judgment for him as they did for the Defendants in this Case, and by Writ of Error, it being brought into the House of Peers, they

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should reverse this Judgment, and give the Plaintiff his damages; will any one say, we could not take notice of this? Would it not destroy all our rights and privileges? So no doubt in this Case, though they have gone by way of action at law, and Judgment in Westminster-Hall, and Writ of Error in the House of Peers, it cannot be said, but, if it concerns our rights, we may take notice of it. In the Case of sir John Elliot, &c. the Commons declared the Judgment, 5 Car. 1. illegal, and against the privilege of parliament.—It is my poor opinion, it is our right (and I think no body can doubt it,) for we are in possession of it, to determine our own elections; and I would be glad to be acquainted when first we began to hear and determine our own elections: I believe nobody will say with certainty when we did not.—I know we have a turbulent author, who generally affected to be in the wrong, and, though a member of this House, made it his business to write against their privileges, and was always hunting among the records of the Tower, from whence he brought away a great deal of dirt with him, and yet could never pretend or produce more than two instances, where the Commons resorted to any other place for the settling the right of their elections: The man I mean, is Mr. Prynn: he takes occasion to do it from what is said by my Lord Chief Justice Coke, (who, with your favour, I must take notice so far, as to say he was not only a very great man in our profession, but had been Speaker of the House of Commons in his time) and he, in his 1 Inst. fol. 116. and 4 Inst. 1 cap. fol. 14, 15, and 23, asserts, 'That the law 'of parliament is as much part of the law of 'the kingdom, as any other, and indeed the 'highest: He calls it 'Lex et consuetudo par-'liamenti;'' and says, this is the law that each House hath possession of, and judgeth by, and each House is a House of Judicature; and he puts upon this a great many instances, and some of them may seem strange to those who have run upon the Commons of late. He tells you of a case 8 Eliz. (at that time Onslow was Speaker, and it is in fol. 19, of the Book of the House of Commons of that year) one Long was returned a member for Westbury; and it being complained of that he came into the House by undue practices, it was enquired into by the House of Commons, and found that he had given four pounds to the Mayor of Westbury; and they having examined and tried this matter, did not only expel Long, but they fined and imprisoned the Mayor of Westbury, 'Secundum Legem et Consuetu-'dinem Parliamenti.' Mr. Prynn, the author I mentioned, supposeth there was a time when the Commons used to apply to the king, in case wrong was done in the matter of their elections; and in his comment on the 4 Instit. 31, goes back to the 12 Ed. 2, there the king was pleased by commission to appoint several persons to hear the matter of an election. He pretends too, another instance, and that is in Henry the 6th's time, in the case of Huntington; and there was a Petition to, and a Commission from the king in like manner. The latest of these instances is above 200 years ago, and neither of them make any thing for a power in the Lords to determine the elections of the Commons; but, on the contrary, rather for a power to be delegated by the king; and the instances are but two. Now, I say, Sir, we are, and have been in possession of this right for a very great length of time, and have it confirmed to us by act of parliament; for the late act of 7 and 8 of king William, hath, in effect, declared, that the determination of the Right of the electors is in the House of Commons: for it says, That the sheriffs and officers of all sorts, shall follow the last determination of the House of Commons, as their rule and guide in such cases. And surely nothing is more absurd, than to say this House shall examine, try, and determine who are elected; and yet Westminster-Hall, and the Lords, shall examine and determine the right of the electors. How can any one examine the election, but the first step he takes must be to consider and determine who are the electors? And the determining the one, is determining the other.—I would trouble you a little with the Reasons they give why this action should lie. It hath been said, and I think it is true, for the honour of England, and I believe it hardly can be found to fail, that where a man hath a right, and a wrong done him, he is somewhere to have a remedy, but now let us see the application of this rule. Are they not by the same law that settles the right, and declares the wrong, to enquire where the remedy is to be had? For, though you have a remedy, you mistake that which is the proper remedy; and the same law that settles the right, and declares the wrong, gives the remedy; you must therefore go to the place where the law directs, for your remedy, not where yourself would desire the remedy. 'Therefore' says my Lord Coke, in his Preface to his 4 Instit. and likewise fol. 14, and 15, 'we have several jurisdictions, some ecclesiastical, some temporal, &c. some governed by one law, and some by another; and all must have their rules and bounds, which we must observed.' If your right be ecclesiastical, as for instance, before the Statute of Tithes, could you in Westminster-Hall have brought your action? Or if issue had been joined in such an action, and the parties had gone to trial, will any body say but that the Judges must have arrested judgment, and said that it was out of their jurisdiction? If a lord of a manor should refuse to admit a man, to whom a surrender is made of a copyhold estate, the lord has done him wrong, and damage too; but yet he cannot bring his action at law for it, for it is an equitable right, and he must go to a court of equity for his remedy: and so I could put a thousand instances, but I will not spend your time. So that I say, it is not enough to say you have a right, and must have a remedy, and therefore you may bring your action at

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the common law; but you must seek it in a proper place, though perhaps costs and damages, and a trial by a jury, may be more desirable to the party.—Now, in this Case I would know, whether this is not a matter of parliamentary jurisdiction, and also a parliamentary right? Is any thing more plain? He that hath right to vote, hath a right to send a person to represent him, and sit in parliament; therefore it is a parliamentary right; where then must be your remedy? In the House of Commons, where you have a right to send a person to sit and represent you; there you may complain, I was denied my vote, or misused upon the election. This, by the law of parliament, shall be examined here, and for this purpose you constantly appoint a standing committee of elections. Indeed I cannot but wonder at the bringing of this new-invented action; for if there be any thing certain in the common law, it is this, that where you claim a right to any thing, it must be founded upon common usage in that case, or in some case that carries the same reason, and is just like it; for the common law, generally speaking, is nothing else but common usage. Now let us see for the usage in this case, and whether there has been any thing like this action before. Say they, how do you know but such actions have been brought before? I do not see that there can be a stronger negative proof in any other case than in this; for we have had parliaments, as appears by our statutes in print, for 500 years, and we have had parliaments in every reign since, and in several reigns a great many parliaments: and let us consider, whether this case would not have happened frequently in 500 years, in so many elections in counties, boroughs, and cities where there are such an infinite number of electors? And therefore this case must frequently have happened if such an action lay at law. If it be asked, how do I know that such an action hath not been brought before; I answer, it is wonderfully plain there never was such an action brought before; for as we have our acts of parliament in print, so we have faithful Reports of all our Law-Cases, which we call the Year-Books, and which are memorials of all cases so long back as from Ed. 2's time, that is 400 years, followed by a series of Reports till this time, and are now grown so numerous, that they become a burden: and I will desire any gentleman of the law here, or in England, to shew me the footsteps of any such action as this, or of this kind till now, ever brought before. We have always said, our fore-fathers were wiser men, and greater lawyers than we are; and so they were: but such an action as this never entered their thoughts.—But it may be said, how does it appear that there was occasion for these kind of actions formerly, for men heretofore were unwilling to serve in parliament, they were hired, and almost prest to it, and it was hard to get men to come up? I answer, it was so far otherwise for many years past, that so early as Henry 4's time, there were great contests about elections, and the sheriffs in those days were apt to do wrong, as appears by 7 H. 4, cap. 15. And therefore 11 H. 4, cap. 1, there was imposed 100*l.* penalty to the king, on the sheriff that did not do his duty, according as the statute does direct: so that it does appear there was occasion for these actions, if they had lain by law; and yet you will find that never, till 23 H. 6, did it enter into the thoughts of any man, that an action at common law could be brought for an injury in an election; and therefore that act recites, that there was not before that time, a sufficient remedy for the party grieved, and therefore gives 100*l.* to the party, and costs, if a knight, and 40*l.* if a citizen or burgess, and that by a law made on purpose to help the party to an action, where there was no such remedy before. Thus it rested till the famous Case between Nevill and Strode, in 2 Siderlin, fol. 168, (in that time they sent five knights of the shire out of Berkshire.) Mr. Nevill brought his action against Strode the sheriff; and he alledged that he being one of the five chosen for that county, Strode had maliciously and falsely refused to return him, &c. and the jury gave him 1,500*l.* damages. This action made a great noise, and the Judges looked upon it as a great novelty, and thought fit to consult the parliament in it;* (they used to consult the parliament in former days, in matters relating to the parliament,) and the

* Sir Humphry Mackworth, in his Vindication of the Fundamental Right of the Commons of England, p. 27, saith, In the Case of Strode and Nevill, A. D. 1655, in an action on the case, against the sheriff for a false return, to the damage of 2,000*l.* after a Verdict for the Plaintiff and 1,500*l.* Damages, the Court of the King's Bench adjourned the case into parliament, *propter difficultatem*, whether the action did lie or not? Where it is to be observed, that it was not adjourned into the House of Peers, but into the House of Commons, as the only proper judges, in all cases of that nature concerning elections; so careful were they of the Rights of the Commons. And let not the iniquity of those times of Rebellion be objected to this instance; the Argument from thence extremely confirms the Right of the Commons; for if it be considered that Cromwell had then created a new House of Lords, and wanted nothing but a House of Commons to establish his usurpation, that to this purpose he had formed a new model of an House of Commons, and overturned the method of elections, depriving all the boroughs of their rights, and causing the choice and returns of members to be made by the county; yet the name of a House of Commons remained; and even that was so reverenced in those days, that none would attempt to deprive them of their essential privilege, of judging of elections: no influence could bias the judges; they thought it so inherent, that they would not presume to intermeddle in it.

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Judges heretofore, when they were asked their Opinion in difficult matters relating to the parliament, would say, this is above us, and therefore to be decided by parliament. And this case being referred to the parliament, they looked upon it as so extraordinary an attempt, that though Mr. Nevill had a verdict for 1,500*l.* Damages, yet he never got a farthing of the money, or any benefit by the verdict: *Sed ibi dormivit.*—After this, came the great Cause, that hath been mentioned, of Soame and Barnardiston; and methinks this deserves very much our consideration, and how far the determination of the House of Peers ought to be a rule in this very case. That cause set forth with great prospect of success; sir Samuel Barnardiston, in that case, did not slight the determination of the House of Commons, but first petitioned this House as the proper place to determine his right, and had it decided for him, that he was the person duly elected, and the other return was taken off the file; and then he brought his action at common law, and set forth this whole matter, and that the sheriff falsly and maliciously returned another with him, whereby he was kept out of his right, &c. a long time, and put to very great expence and costs. This came to be tried at the bar of the King's-bench, and there was a verdict given for sir Samuel Barnardiston for 800*l.* This was looked upon as a great case, and my lord chief justice Hale bid all persons about him take notice, that they did not determine the right of the election, for the judgment in that case belonged to the parliament; but said, since the House of Commons had determined the right, he thought they might follow their judgment to repair him in damages, and so gave judgment for the damages the jury had given the plaintiff.—This Case was looked upon as so improper for the common law, that upon a Writ of Error brought into the Exchequer Chamber, that Judgment was reversed, because the common law could not any way intermeddle with elections to parliament, further than was directed by act of parliament. It might have been said, and I know it was said, that the reversal of this Judgment was by an extraordinary high hand: and therefore upon the Revolution, in the very beginning of king William's reign, sir Samuel Barnardiston brought a Writ of Error in parliament, complaining that in the Exchequer-Chamber, they had reversed this Judgment unjustly, and went upon these Reasons, as may be observed from the Journal of the House of Lords, which were the reasons of some very few protesting Lords: 1. Because it was a denying sir Samuel Barnardiston the benefit of the law, which gives relief to all wrongs and injuries; and is a very great damage to the plaintiff, and therefore he ought to be repaired. 2. Say they, if it should be allowed that sheriffs and bailiffs may make false returns, and no remedy but a 100*l.* forfeiture, it would be of dangerous consequence, and might tend to the packing of a House of Commons, which may overturn the whole constitution. But the Peers then did not think these Reasons sufficient for this new action at common law, and accordingly the House of Peers affirmed the Judgment of reversal in the Exchequer Chamber, and said, the Judgment was well reversed, for that no such action did lie at the common-law, though the injury done did tend to the plaintiff's damage; and all other mischiefs which are now suggested, were insisted on; and thus it stands to this day. And yet now it is said upon the same reasons, the action does lie for this person, though he be only an elector, and must receive much less damage than the person elected; and there is no one reason for the elector, but holds more strongly for the elected. The elected cannot maintain an action, and yet now it is clear that one of the electors may, though he can have no substantial damage; for if a man comes and gives his vote, (as here in this case) it is not in the power of the officer to hinder him of the benefit of it; for his vote will be as well given as if the officer had put it down, and this with respect both to the person who gave the vote, and him for whom he voted; and so really it is no substantial damage to any man. —The next thing I shall mention to you, is another case of Mr. Onslow: he brought his action against the sheriff of Surrey for making such a return upon him, (I believe I have the gentleman in my eye who brought that action) he declared in the same manner, that it was done falsely and maliciously, and had a trial and a verdict; and yet notwithstanding the court of common pleas, (being governed by sir Samuel Barnardiston's Case) did unanimously, 33 Car. 2, say, we must not presume to determine the merits of elections, or returns, there is a proper jurisdiction for it; and they gave Judgment against the action, and I think he hath acquiesced in it ever since. I am sure I have heard no more of it; the Reasons given by the court, appear in the Report of the Case in 3 Levinz, fol. 29, and 30, and are worth the reading.—There was a Case a year ago between Prideaux and Morris, in the county of Cornwall. Mr. Stratford was returned, and Mr. Prideaux brought an action in the common pleas, in the time of king William, against the Viander, for making a false return against him to his great damage, and laid it with all aggravation. This went to a trial in Cornwall, and there was a special verdict found; and the question was, whether this action would lie before the Commons had determined the right of election? And the whole court unanimously gave Judgment, that the action could not be brought, till the matter had been first brought before the House of Commons, and they had determined the right. —Now here is a total silence in all books of the law, that any such action as this is doth lie: here are the acts of H. 6, and king William, which provide remedies at law, because there was no other provision before. Here are not only these solemn Judgments in Westmin-

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ster-Hall, but the Judgment of the House of Peers, in the case most like to this of any that can be thought of, that no such action doth lie: and yet I cannot tell how, there are, abroad, persons that endeavour to run upon the house of Commons, and use them ill on all occasions, and are zealous for this cause, which seems to be set on foot to undermine all our elections, and bring them to another judicature.—Now see the consequence: no man ought to have a foot against him, two Judgments at once in two several courts; whereby one may punish him at the same time for doing a thing, and the other for not doing it. I believe such proceedings would be looked upon as barbarous even in Turkey, and yet that will be just our case: a gentleman petitions the House of Commons, and says, the right is in such a set, or sort of men; as for example, in all the freemen, or free burgesses; and that, according to that way of election, he was chosen, and not the person that is returned: and this is determined by the committee of elections, and afterwards by this House against him that petitioned. This man goes immediately and brings an action in Westminster-Hall against the officer that returned the other: nay, every one of these persons that he affirmed the right of election to be in, bring their actions, and it comes into Westminster-Hall to be tried, and the jury find the right to be in these men, as he has alledged, contrary to the determination of the House of Commons, and judgment is given against the officer in every one of these actions for the men you have determined the right not to be in. You cannot set one of these judgments against the other; I cannot defend myself in Westminster-Hall, by saying, the House of Commons have determined that these men, who sue me, have no right to vote. There is nothing like this in the world; two independent Courts cannot controul one another, but both may go on together in the same cause; and both having a right to judge, one judges one way, and the other the other, and the officer is crucified between them.—Let it be considered again, that at this rate none but knaves, or beggars, will be mayors, or bailiffs in an election-year: For suppose as at Westminster, where I think there are ten thousand electors: Or suppose it be as in some towns near Wales, for one of which I have the honour to serve, where the descendants of every burgess claim a right to vote, and by consequence they will bring it in time almost to all the sons of Adam: for all the sons, and all the daughters' husbands, and all their descendants claim a right to vote. Now what a miserable case must that officer be in, when persons shall come from east, west, north and south, and say their pedigree is so and so, (for they are good at pedigrees in those countries,) yet, what a condition is he in? he is bound to determine whether they have a vote or not; and though he is no lawyer, or herald, yet however he is bound to give judgment one way or another at the peril of an action: And suppose but a hundred men should bring their actions against the officer, what man can stand a hundred actions, though he be in the right? There are not only these difficulties in the case, but there is revenge: and in popular elections there are those heats, and the voters engage with that animosity, that the losing side next day will be ready, perhaps only for revenge, to send for a multitude of writs, and have the pleasure of ruining the officer who was against them, though he was in the right; for every one has a right to bring his action whose vote was disallowed, though it should be found at last that he had no right.—As to the words *falso et malitiose* laid in this declaration, which seem to be a great ingredient in this action, I agree, in some cases where there is a jurisdiction, these words may make a great aggravation of the offence; but they cannot make a thing unlawful that is lawful, nor give a jurisdiction where there was none before: For no man will say, if a person should bring an action at common-law for a legacy, and alledge, that the executor, though he had sufficient assets, yet he *falso et malitiose*, refused to pay it; that would give a jurisdiction to the courts of common-law. These words are *verba clericorum*, words of course for the most part. Besides, how dangerous and hazardous would it be for an officer, though ever so innocent, to depend upon these words; when every body knows that falsity and malice rest in the mind, they are in the imagination, and the jury that are to try this action, are at liberty to judge with what mind the officer acted; that would be the hardest thing in the world for an officer to undergo in every action. It would be enough for the jury to presume it was done maliciously, (seeing few mayors, or bailiffs, but have their inclinations, and give their votes themselves for their friends,) because the officer made an interest for the other side; and the consequence of this new invented action, if countenanced, will be, that every triennial parliament will bring a triennial harvest to Westminster-hall. I speak against my own private interest, if that was to be considered. Elections, without actions, keep up animosities too long, so that they are hardly healed in three years time; but these actions will help to vex and worry corporations from three years to three years; and mayors and bailiffs will be the most miserable men in the kingdom, and ought to run their country rather than stand a popular election: whereas the officer is accountable to you for his behaviour at the election.—This is not a matter that stands in need of the aid and assistance of Westminster-hall, that they should invent a new action and remedy, as if there was a failure of justice. Has any one come with a complaint against any officer to this House, and they have not been willing to hear it? Have not the Committee a right to hear and report matters with respect to the electors, as well as to the elected? And have not we known that the electors, though but a small number of them (as in a late case of this sorry town of Aylesbury) about five, I think, of the electors came and com-

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plained, and their complaints were fully heard. And if any single elector should come with a petition and represent that he was abused by an officer, or ill-treated by any mayor, or bailiff at the election, I do not think but the House would be ready to do him justice: And they have a right so to do, for the officer is accountable to them for his behaviour. It is not now only so practised, but always was so; for in the same treatise of my lord Coke's 4th Inst. Fol. 49, he says, That they will make him change his very return; they will make him raze out the name of one, and put in the name of the other. So that they have a jurisdiction adequate in this case; and surely if they can hear the complaint of several electors, they can hear the complaint of any one elector. I would not trouble you with arguments that may be proper in Westminster-hall, because we are here upon matter of our constitution; but I know no action more obnoxious to the true reason of the common-law, which abhors multiplicity of actions: and a man shall never have a particular action, for that which naturally draws on multiplicity of actions, and may be reformed in a more compendious manner. Upon this reason that famous Case in 5 Rep. called 'Bolton's 'Case,' is founded: If a man builds a dove house near a common field, where men make all their profit by plowing and tillage, and therein keeps a great number of pigeons that live upon his neighbours' corn, is not this a great wrong and injury to them? And yet no action lies: for, if one man that is wronged thus may bring his action, a great many more may do the like, and so there will be infinite actions; therefore it shall be presented in the Court-Leet, as that book says. So there is that Case of Williams in the same book, where the lord of a manor had a chapel for himself and his tenants to repair to, and to hear divine service, within the parish of Aldbury: he brought his action against the vicar, who was obliged to officiate, for that he had neglected, &c. though he had used time out of mind to officiate, and had an allowance for it: says the Case, if this action should be allowed, all the tenants and servants of the Lord might have the like action, and so there would be a multiplicity of actions, and therefore he shall not have this action; but, if it had been to have been performed in his own private house or chapel, he alone might have had an action. But since it would draw on a great many actions, which may ruin any man, therefore the remedy must be taken in such a manner as it is given where there is public offence. In the case before us, every person is chosen *pro bono publico*; for though he be chosen for a particular place, he serves for the whole kingdom; and for that reason you shall not proceed by way of action, but in such manner as it hath been always used, where the whole thing shall be examined at once, and all determined upon one Petition, wherein all the parties injured may join, instead of a multitude of actions.—I shall not propose to you any thing, but hope you will at least come to some determination that may assert our right in this point; that this door may not be open to bring a new jurisdiction, to examine and determine whether any of us sit here rightfully or not.—It is a standing order of the House, that no peer hath a vote in the election of a commoner; but in the next election, if this be allowed, every peer may vote, for they are freeholders, and many of them burgesses and members of corporations, and they may all come and demand their votes, and if refused, bring their actions. These and many more inconveniencies are obvious, if this action should be allowed, and I believe it may have a great effect upon our constitution. Very much more might yet be said, but I have taken up too much time already."

Sir *John Hawles*, (Solicitor-General, *temp.* Will. 3.) "Mr. Freeman, we are jealous of our privileges, and I think we have just reason so to be; but we must take care that that does not carry us too far out of the way. I would not have it taken for granted, that whatsoever is said against the Lords here, tends to assert the privileges of this House, or that what is said for the Lords here, is against this House. I am as much for the privileges of the Commons of England as any man, and I own they have lost a great deal of power; I think the Commons had a great power, when the greatest part of the judicature of this government was their sole right: Nay, if a peer had had a matter of contest with another peer, or with a commoner, and issue was joined, that issue was to be tried by commoners, and not by peers. It is true, if the prosecution of a peer was in a capital matter at the king's suit, it was to be tried part by commoners and part by peers; the bill of Indictment was to be found by commoners, but the issue was to be tried by peers; But if a peer was prosecuted in a capital matter by a commoner, or peer, as by an appeal, the issue was to be tried by commoners. I must confess, as to the Lords jurisdiction in matters of equity, the Commons have great reason to be jealous, because, there, all facts, as well as law and equity, come to be tried and judged by the Lords alone.—Sir, I say, when all facts were tried, and most of the officers of government were chosen by the freeholders of the county, the Commons were somewhat greater than now they are; when they had the election of the sheriffs of the counties; when they had the election of what they called conservators of the peace, officers that were the same with our now justices of the peace, with this differences only, those the Commons made, these the crown makes. The Commons had a great power when they were to elect their captains that led them out to war, which heretofore they did, and had a right to do, till it was taken away from them by the act that settles the militia, though I own it was disused many years before. The making of sheriffs is now placed in the crown: we have nothing left now, but matters of trials in particular cases, and even that is so far cramp't, that the jury is returned

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by an officer that the crown puts upon the county.—But yet I am not for carrying things farther than we have a right to do; I am for keeping what we have, and for that reason I am not for encroaching upon the allowed jurisdiction of the House of Lords: we have always allowed them a right to hold plea of Writs of Error. The parliament in Hen. 4th's time, did declare the right of Judicature to be in the House of Peers; and I never found any inconvenience in it, if the Peers kept only to matters of law, and left the facts to be tried by the Commons; nor did I ever know that right of the Lords questioned till now. A great deal hath been said for, and against the right of bringing this action; I do not think that that is now the question: the question is, Whether a Judgment being given in the King's-Bench, a Writ of Error does not lie in the House of Lords? But whether the Lords did right, in giving that judgment they have now given in the case before you, that is another thing. I speak to the right of holding plea of this particular Writ of Error: no body hath denied but that they have a right to hold plea of a Writ of Error in general, upon a judgment given in Westminster-hall; but, say they, the Lords ought not to have done it in this particular case; and several reasons have been given for it.—First, Here is the privilege of the House of Commons in question in the case: That hath been argued and insisted on, but I confess, that argument does not influence me. The Lords have held plea of a Writ of Error, in which the privilege of the Commons hath been in question, and the Lords have done right to the Commons in it, particularly in that matter of the parliament of 1640, when some were supposed to have done irregular things in the House of Commons, and were prosecuted for it by information in the King's-Bench, and were fined in king Charles 1's time; whereupon a Writ of Error was brought in the House of Lords, and that judgment reversed in the time of king Charles 2. The Lords did right to the Commons in the matter of privileges of the Commons, for it was for laying hands upon the Speaker in this House; and I think every body commended what was done in that matter by the House of Lords, and no body ever said but that they had a right so to do. Some things are not to be come at otherwise, than by a Writ of Error in the House of Lords; and I believe if you look a little back, there have been Judgments given in Westminster-hall, not only in matters of, but against the privilege of the Commons: and these Judgments stand unreversed, though I think they are fit to be reversed, and I know no other method to do it but by Writ of Error in the House of Lords. I think there is one Judgment upon an information against the Speaker, for licensing papers to be printed, which he did by order of the House.—There is another instance of a person taken into custody by order of this House; it was the case of Mr. Topham serjeant of this House: The party brought his action; the serjeant pleaded his warrant, that it was done by order of the House of Commons, and Judgment was given against him, and this Judgment stands unreversed. Now what method have you to reverse these Judgments, but by Writ of Error? If you think to do it by a bill in this House, that must likewise pass the House of Lords, and so will be the same thing as a Writ of Error. Another thing is said, that this person was not damnified; or if he was, there are such a number of persons who were then likewise damnified, that may bring their actions, that no body will execute such an office. I think that argument ought not to prevail, for at that rate you will allow the officer not only to be a judge, but the supreme judge, and the parties damnified shall be without relief; he may do what he pleases, and he shall never be questioned afterwards, save in this House, which I will consider by and by. It is agreed, you may punish an officer that misbehaves himself in matters of elections, and that is practised now very much; but at the same time you punish the officer, the person damnified hath no satisfaction, though our law allows satisfaction, in cases where he that did the wrong shall not be punished, and allows satisfaction in all cases where a person is punishable, if another hath received a particular damage. A man is liable to be fined to the king or queen, that is a punishment; but if he pays so much to the party damnified, that is satisfaction. If a man's horse breaks into another's ground, he shall not be punished, but the person damnified shall have satisfaction; But in this case you allow the officer shall be punished, but you will not allow the man injured any satisfaction for the damage he received; which cannot be supported by reason, or by the authority of any particular case. In all cases I take it to be true, where a man is punished for doing another damage, the person damnified shall have satisfaction. But that rule does not hold true in the contrary.—It is said there are a great many persons concerned, and if you give every one an action, there will be no end of these actions, and therefore none shall have an action. This is a strange argument: If a man injures one, or two persons, each shall have an action for their respective damages; but if he injures an hundred, none of them shall have an action: as if when a man is moderately injurious, he shall make satisfaction; but if he is extravagantly injurious, he shall be scot-free, and make satisfaction to none. This rests to be made good either by reason or authority, which hitherto hath not been done. The case cited, I own, is true; but you must take it with this difference, if any thing is done which might have been of damage to a hundred people, but was of damage to none, none shall bring their action, though the criminal shall be punished; but where there is particular damage done to any person, an action will lie for the damnification of that person. If a man digs a pit, any man may fall into it, and no person shall bring an action for that; but if

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any person doth fall into it, and hath particular damage by it, he shall bring an action and have satisfaction. And with submission, that argument will not hold, that because a person might be ruined, if he be obliged to make satisfaction for the wrong he hath done, therefore he shall not make satisfaction to any particular person he hath damnified.—It hath been said, admitting it to be so, that the party ought to have satisfaction, yet he ought to take his remedy in a proper court; as if a legacy was given, an action would not lie in the Queen's-bench for it; which is true. But it would have been well if that gentleman had told us which was the proper court to give satisfaction, for the wrong supposed to have been done in this case; if the Queen's-bench be not the proper court, what court is? It is said the House of Commons is a court, I was always of opinion it was so: It is a Court of Judicature, my lord Coke says, and a Court of Record. I wonder, when all this is allowed, it should be said this court hath not a power to administer an oath to a witness; I think that was never denied to any other court whatsoever. Every Court of Record has power to administer an oath; but though this be a Court of Record, this cannot, it hath not that power. It would have been very well if those, who are against this action, could shew us that this is a court that can give satisfaction; some courts can punish, but cannot give satisfaction, whereof I think this one; satisfaction was never given here that I know of; was it ever? or pretended to be had here? In the first instance, it is true, this House hath punished, and by such punishment compelled the delinquent to make satisfaction to a person, by increasing, or remitting such punishment; but that is not the case before us.—It hath been said there has been no instance of this kind of action brought; and that the court of Queen's-bench have declared they have nothing to do with the business of elections, for that the right of elections ought to be determined here, and for that purpose the declaration of the Lord Chief-Justice Hale, in the case of Barnardiston and Soame, has been cited. I must confess I cannot but wonder at that case; we did lately think that the Judgment given in the King's-bench in that case, was rightly given; and afterwards, when it was reversed, people were astonished at the reason of it; and more when that Judgment of reversal came to be affirmed in the House of Lords. Nobody hath ever said why that judgment was reversed; I do not see but, on the same reason, several Judgments within these few years, nay, even in this reign, may be reversed likewise; for the court of King's-bench, in that case, did not pretend to a Judicature of determining the right of elections; the matter in that case had been determined before in this House; but they only gave damages for the wrong sustained, that was all the court did in that case, and yet that Judgment was reversed. I believe there hath been some Judgment given by this House, within these twelve months, that where the House hath determined the right of election, the party grieved shall be allowed to maintain an action at law for his damnification.—But I take it there is a difference between the case of Barnardiston and Soame, and this present case. Time was, when it was doubted, where a man was elected and the officer refused to return him, whether the person elected was damnified or not. It is very certain, heretofore persons were not so ambitious of sitting in this House as now they are; and some persons purchased charters of exemption, to be excused sitting in this House: And so it had been practised in the House of Lords. The act that hath been mentioned before expressly commands, that the person chosen shall come and be present in parliament. And afterwards there was a penalty put upon such as were chosen, if they did not appear here; to which another punishment was added, which was, that the person elected, if he did not come hither, should lose his wages. It was not reckoned a damage that any person was not returned a burgess to sit here, but a kindness; but that did not hold so in the case of an elector. Every body agrees, as the electors had a right to chuse, so there was no statute to compel them so to do; but they looked upon it not only as their right, but their interest, to be present at the elections. And none can say but it is a man's interest, to make choice of such a person to serve in parliament, (who hath the power over his estate, and life too for aught I know,) as he could trust. No body ever doubted that a person who had a right to vote, had an interest, and might be damnified if his vote was refused. So that none of the cases that have been put of the right of the person elected to serve in Parliament, as knight of the shire, or as burgess, come up to the case in question.—I would say one thing as to the damnification of the persons elected; there is a late act that gives double damages where the return is contrary to the last determination. Now, I do take it, that act supposes that a man might have been damnified before; and if he was damnified before, he was so by the common-law, for no statute gives him any damages: It is true, that statute gives double damages, but still that statute supposes there was a damage before, and builds upon that foundation; so that with submission, that very statute runs against all the cases that have been put as to the persons elected.—It is said, at this rate, the Lords may come to vote in elections. I am of opinion the Lords have no right to vote in elections for a knight of a shire or a burgess; and the reason I go upon is this, every person who had a right to vote, ought to have contributed to the expences of him that was elected; if he was a freeholder, he was an elector for the county, if a burgess, for the borough; and the expences of the knight of the shire were to be levied of all the freeholders, and the expences of the burgesses upon all that were resident in the borough. But the Lords were

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excused from that charge, they were not to be contributors to the expences of a knight of the shire, or burgess, because they were of another house. There was a law made which says, that for lands purchased by any Lords, such lands should continue chargeable to the expences of knights of the shire, as they were before such purchase; so that it is plain before that act, the lands the Lords were seized of, or purchased, were excused from the charge. —But, Sir, I think this matter is not to the case in question. This is nothing but a collateral action for damnification, whereof the consequence is not much, not above five pounds: though I acknowledge the smallness of the sum does not influence this case. Nor is the question, whether the Lords have done right or not, in reversing the Judgment given in the Queen's-bench: 'Humanum est errare.' If they have a jurisdiction, we cannot justly complain; though I am of opinion they have done right: I think the plaintiff in this case was damnified, and the court of Queen's-bench ought to have given Judgment against those who did him the injury, for the damage he sustained; and the Lords have done right in reversing that Judgment, and in giving such as the court of Queen's-bench ought to have given."

Sir Edward Seymour. "Sir, It is enough for me that we have the law on our side, and we are very much obliged to the pains and understanding of those learned gentlemen that opened this debate, in presenting us with a true state of our disease; it only remains now for your prudence, to apply a remedy. And I cannot but take notice, that this is an action without any precedent to warrant this proceeding; and I believe it might have remained so still, (for I do not think there was virtue enough in the cobler of Aylesbury, nor had he purse enough) if a Lord had not acted that part.—For my part, Sir, I do not think this to be the single instance of the House of Lords, we have reason to complain of: I think in a great measure, by their proceedings, they seem to hold forth, That the axe is laid to the root, and that they have a dislike of this House of Commons, and endeavour to get rid of them. I shall not instance in particulars, but I hope there is one you will not let go, without applying some remedy to; and that is, that noble Representation* in which they have vilified you in the highest degree, and lay all the mischiefs of the last reign, and this, at your door. I could shew you, there is nothing in it but stuff, *populum fallere;* and we see the consequence of it, and what pains and endeavours they have taken care to disperse it all over the world, to make impressions upon the people. But that which I would have some resort to, is this, that these worthy persons that have spoke before, though they have truly represented the state of our condition, yet they have been very tender of applying a remedy.—It does, I think, consist of two parts; one is what relates to the inferior courts, the other to the Judgment of the House of Lords upon this Writ of Error. Now there is a right to bring a Writ of Error, the learned admit; but I would take away the foundation, and make this declaration:—That no inferior court below should presume to inter-meddle with the elections of the House of Commons; and I am sure then there will be no foundation for a Writ of Error. In the next step, with relation to the Judgment given in the House of Lords; it is true, the Lords make a great complaint, that in matters of parliament we have addressed, without advising and consulting with them: I will not say how far it is justified by their proceedings; I need not remind you of the Address they made without you, when you addressed against my Lord of Worcester; before you had presented your Address, they presented a Counter-Address to yours. But I take the distinction to be here, it is one thing in matters of state, and another thing when the matter depends between the two Houses: where it is a matter of state, with relation to the queen's prerogative being violated and invaded, as you are her great council, you are to advise the queen in that matter, and not let any thing of that kind pass upon her.—But however I would go the regular way, by condemning this Judgment, in relation to the House of Lords; and, after you have made that condemnation, I would apply to the House of Lords, to see if they would recede from this Judgment of theirs. But I am afraid arguments or debates will help your case but little, you must have recourse to remedies that are in your own power. We see what they did upon the last occasion, when they thought their privileges were concerned; they adjourned, and all to prepare the way to make the world believe they were injured, and prepare them for their proceedings afterwards.—And I say, this is not a thing that falls out by chance, but carried on by all their power, to represent you as inconsiderable, and to make you useful for nothing but giving money, and then to send you home into the country. But if you do not keep the power in your own hands, you will be without remedy. I conclude with what I mentioned in relation to the courts below, to declare that they have no power to intermeddle in matters of our elections."

Marquis of *Hartington*, (afterwards duke of Devonshire). "I shall not pretend to follow that hon. gentleman near the bar, in all the steps he hath made, though I think I may be as regular as he. I think he hath only shewed, that there is not so much reason in this case to find fault with the Lords, but that it is necessary to find fault with them one way or other. —I think this is a matter of great consequence, and as long as I sit here, and as long as I live, I shall be as tender of the privileges of this house as any body. I think it is upon the due balance of both houses, that the safety of the whole does consist; and I must confess, I think

* See p. 199.

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the liberty of a cobler ought to be as much regarded as of any body else; that is the happiness of our constitution.—I think it was very well observed by an experienced member, that this writ came very regularly before the Lords: if so, then I think the question is between us, and the persons that elected us; and I think, though gentlemen would not formerly allow of any distinction between the privileges of the House, and those of the people of England, yet they must allow it now, or they cannot complain that this action is any prejudice to this House. For when a person offers his vote at an election, and is not admitted to give it, and upon such refusal brings his action in the courts in Westminster-hall, (which I take to be the present case), if giving judgment upon it be contrary to the privileges of this House, then it is pretty plain, that our privileges do interfere with the rights of the people that elected us. I shall plainly give you my opinion in this case: I cannot think this action to be a breach of the privilege of this House; for, Sir, the party grieved, can be no way relieved, but by applying to the law: and I think the learned gentleman below, is out in all his instances; for he hath given an account of people injured applying to you, but they were candidates, and certainly that was their proper remedy; but in the case of an elector, I do not see he can have satisfaction by applying to you.—Gentlemen talk of the law of parliament; I cannot see how that can give any interruption to the law of the land, that it shall not do right to the party grieved. How shall a man, injured in the manner I have mentioned, receive satisfaction, by applying to the parliament? It is true, the officer offending may be punished, but the party injured cannot receive that satisfaction he would in the courts below, by giving him his damages.—I think this is a matter of great consideration, and it is necessary to consider well of it, and not to determine rashly. I think it may be of use to us, since there are judges who have been of opinion, that the subject ought not to have his remedy in this case. A judge that will, out of fear, or any regard to one house, do contrary to his oath, I believe at another time will be influenced by the other. I think it is the duty of a judge to act according to law, and not be afraid of either."

Mr. *Lowndes.* "Sir, there is no doubt but all the Judges, (as hath been said) and every body else, are obliged to behave themselves according to the laws of the land: but the question is, what is the law of England in this case? If the House of Commons has an original right to determine all matters concerning elections of their own members, (as it hath been always understood to have) and if we have a power to punish officers for making false returns, or any other misfeazances committed by the returning officers; then it will not be necessary, that the judges in Westminster-hall should have any jurisdiction at all, in the matter now in question; and if they have none, then by consequence the Lords will have as little by Writ of Error.—I do confess, Sir, when I first heard of this case, it gave me some apprehension that it might be of fatal consequence (by reason of the novelty of it), to your privileges, which are indeed the privileges of the commonalty of England, which we represent. But since I have thought of it from time to time, and it hath been better opened by the learned gentlemen that have spoke in this debate, I conceive our coming to some resolutions declaratory of our right in this affair, may preserve the Liberties of this House, and of all the Commons of England, who have entrusted us with the preservation of their rights.—I think the learned gentleman over-the-way took his ground too narrow; I might yield him this point, that where there is a Writ of Error brought from a Judgment in Westminster-hall, in cases where a Writ of Error lies, and where that court and the House of Lords have a jurisdiction, there the House of Lords are at liberty to give what judgment they please. But I have read, The House of Lords is not an unlimited jurisdiction, but is bounded, as well as the courts of Westminster-hall, by the law of England. I speak it with the greatest reverence, that the regal power, (which is the most supreme in England) is obliged to the observance of the laws; and it would be absurd at the same time to say, that any part of the parliamentary constitution is not limited by the known laws of the land, or the laws and customs of parliament; and I doubt not but it will appear, a Writ of Error doth not lie, and never did lie before the Lords in such a case: and so it comes at last to this point, what is the law of England in this case? And I will tell you my thoughts of it. I have read and learned, and I believe it is true, that matters of parliament are determined by the laws and customs of parliament; and I believe there is as good an authority for it as there is for Writs of Error, or any thing else; and that this law and custom of parliament is a principal part of the laws of England, and to be learned by experience and precedents, and I reckon that we must come to them at last. Now, Sir, let us see what experience or precedents we have to found this jurisdiction of the House of Commons upon, for examining and determining matters concerning their own elections. It is true, we have no Journals extant before Edw. 6's time: and there is a Book they call Seymour, I think it is a book of no great authority, and if be, there is but a small matter in it. I have read it over carefully myself more than once, and find only titles of Bills depending, and when they were read; and all I learned from it was, that sometimes Bills in those days were read four times. And, Sir, there is as little concerning elections in queen Mary's reign; but in the beginning of queen Elizabeth, you have the matters of elections plainly set down, and so they have been ever since. And from that time to this it hath been a standing Rule in the House of Commons, in

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the beginning of every parliament, and, as I take it, of every session, to appoint a Committee to examine all matters concerning Elections. Now, if the right of elections is not a matter concerning the election, then I own myself under a mistake: but if that be a material part, and comprehended within the general words, and if those committees have from time to time proceeded to examine the right of electors, and this House hath proceeded from time to time to give judgment in such cases, sometimes according to general qualifications settled and adjusted in the House, and very frequently upon examining and considering the rights of particular votes; then I think we have as good authority for the jurisdiction of this House, in the matter of these elections, as can be had for any thing whatsoever.—I do say, in this case, we ought to take our ground and foundation upon the right which the Commons of England have, and ever had by law and customs of parliament, to be exercised by the representatives of their own chusing; which right is grounded upon manifold precedents and constant usage. For if we have a power to hear and determine the right of the electors; and to punish officers for abridging them of their right, and give satisfaction to the party, which most evidently appears, not only in our Journals but by a continued and uninterrupted practice, time out of mind; then I think we need look no further.—I do say, that from time to time there has never been a session of parliament but this power has been exercised; and in your Committees they have often come to resolutions to determine the right of all electors, and frequently of particular electors; and for that purpose only they have examined whether persons had burgage-tenures, or have paid scot and lot, or have been freemen, and other circumstances necessary for the information of the Committees; and as matters have appeared, they have judged them qualified or unqualified: And where the votes of persons having right have been offered, though refused at the election, the Committees have usually allowed those Votes as if they had been given; and upon their determination the House have agreed with the Committee very frequently, and sometimes have disagreed with the Committee, as the merits of the cause have appeared to the House. So that nothing is plainer than that the House of Commons have, from time to time, exercised this jurisdiction in all the parts of it; and sometimes elections have been tried at the bar, and determined by the House upon such trial.—Then how comes this action to be brought in Westminster-Hall; I have considered that point, and take nothing to be plainer than this, that Westminster-Hall never had a power to meddle with elections, but where, by some special act of parliament, you have given them power. I know that there are some opinions that elections have been tried in Chancery, and in the House of Lords; but I cannot find any thing of that nature ever settled, though some attempts have formerly been made that way. I know that witnesses have been carried up sometimes to the House of Lords bar to be sworn, but the trial of elections, and of the right of the electors hath always been in the House of Commons; so that here would be no defect of power or justice if nobody else meddled in this matter.—Then consider what acts have altered this original right; I think there are two that are most material to be considered; one is that of 23 of H. 6, cap. 15. What is the importance of that? It takes notice, that convenient remedy for the party grieved was not ordained in the former statutes against Sheriffs, Mayors and Bailiffs offending; whereby one would infer, that the parliament in those days did not think or know any thing of the remedy now endeavoured to be set up in Westminster-Hall and the House of Lords. And this Statute provides, that if any Sheriff do contrary to the Statutes about elections, he shall incur the penalty of the former Statutes, viz. 100*l.* to the king, and a years imprisonment, and shall forfeit 100*l.* more: To whom? to the party that ought to have been returned; and if he do not sue, there is an action given for the same to any body else. And a mayor or bailiff, for a false or undue return, is to forfeit to the king 40*l.*, and 40*l.* to the party that should be returned; and if he do not sue, then a popular action is given for the last penalty: So it is plain, by this statute, no action is given to the Voter, who had his remedy in the House of Commons. Your ancestors were so careful of your liberties, that they never trusted their elections to all persons; such as held in villenage, all customary tenants who held at the will of their Lords, and might be influenced by them, and, (as I take it) tenants by escuage, 'till escuage was reduced to certainty, were excluded, and afterwards all freeholders under forty shillings a year; and when the officers were by law to admit some Votes and reject others, they were to use the best of their judgments, without being liable to a multiplicity of actions, (unless in the cases I have mentioned,) but for their Defaults were always responsible to the House of Commons.—Let us consider then the statute in king William's time, I think it is in the 7th year of his reign; there the statute takes notice of the injury done to gentlemen by double and false returns, and thereby a double return is made a false return; and by the statute it is provided, that if any returning officer return contrary to the last determination of the House of Commons, of the right of election; such return is thereby adjudged to be a false return, and void.—This statute of the 7th of king William, admits the very determination of the right of election to be in the House of Commons; it does not say the determination of the election, but of the right of election. I will endeavour to avoid repetition.—But how does this matter stand? By the law and custom of parliament, which is a most material part of the law of England, the House of Commons have the jurisdiction in these matters of their elections; but, by one or two statutes, the House of Commons have given power,

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in one or two cases, to proceed in the manner therein prescribed; but none of the cases allowed by those statutes, are like the case of this man at Aylesbury, for he is not a person who has suffered because he was not duly returned, nor the person mentioned in 7 Willielmi; nor is his action founded upon any statute; so that this case is left out of the statutes, and it must be determined according to the law and custom of parliament.—As to the case of Mr. Nevil, it never came to be determined in parliament: We read it was put off to the parliament because of the great weight of it; and the judges were of opinion that it was a matter too high for them. And in the case of Mr. Onslow, where the case of Mr. Nevil was cited, they positively said, it was a matter of too great presumption for the judges to meddle with it.—Then how comes it to pass, if this action might have been brought at common-law; I say, how comes it to pass, that this action was never brought before? Certainly that is an argument it never lay, for there must have been occasion for such an action, if the common-law would have maintained it: But the judges, who knew best the grounds and reasons for this pretended action, have refused meddling in this matter, because it concerned the parliament, and the parliament had not entrusted them with it. As to the case of Barnardiston and Soame, first adjudged in the King's-Bench, the reason was, because it had been adjudged in parliament; for sir Samuel Barnardiston had a majority by near 100, and the House of Commons had tried the cause, and gave him his right of sitting in the House; so that one would have thought that he had liberty to have gone into Westminster Hall. But afterwards this judgment was reversed in the Exchequer; and judge Ellis, in his Argument, says plainly, that the right of determining elections belongs to the House of Commons, and the House of Commons have determined it for sir Samuel Barnardiston, and for that reason you ought to affirm this Judgment.—This matter was brought, presently after the Revolution, into the House of Lords, and when it came there, all but five or six lords were for affirming the reversal. Now, Sir, by reading the reasons of these five or six lords that dissented, we may easily infer what were the reasons that induced the whole House to affirm the reversal. Two reasons were given; first, say they, because otherwise there will be a defect of justice. One may infer, if these five or six lords were of opinion that there would be a defect of justice, all the other lords were of opinion there would be no defect of justice. The five or six lords that dissented said, that the plaintiff ought to have this action by the common law; certainly if the other lords had been of this opinion, they would have maintained the action, but they concluded no such action did lie, because no such action was given by the common law.—I take this matter to be of infinite moment, and I think there is no degree or state in this realm but what is bound by the known laws of this land, so that they have no jurisdiction in this case, then I do not see how a Writ of Error can give them jurisdiction. Sir, I appeal to you, and all the gentlemen here, whether what hath been said on one side hath been at all answered by the other: If an action of *scandalum magnatum* should be brought against a member, for what he has said in this house, no doubt but that member would plead the privilege of this House, and it is to be hoped the judges would allow it, and put the plaintiff off *sine die*, But notwithstanding, a Writ of Error, according to this doctrine, might be brought, and the Lords might give judgment that this action does lie, and then what would become of your liberty of debate? This is an instance worth your regard. It hath been told you how the Lords have taken notice of the privileges of this House, in the Case of Hollis and Elliot. Let that be set in its true colours, and see whether any thing can be drawn from that case to fortify the Judgment lately given in the House of Lords. There was a disorder in the House of Commons, and the Speaker was violently forced back into the chair, and scandalous words against the king's privy council and judges, were uttered by Elliot, Hollis and others, and upon that a prosecution was brought, 5 Car. 1, against those particular gentlemen in Westminster-hall; as well for the words spoke in the House of Commons as for the force; and fines were set upon them. This matter, after the Restoration of Charles 2, was brought before the Lords, at a conference, and they took notice of the privileges of this House, not to set them aside, but confirm them; and their lordships declared the Judgment to be illegal, and the freedom and privilege of parliament, and desired the lord Hollis to bring the roll before them by Writ of Error; and so, by agreement, the Judgment was reversed, as being against the freedom of speech in parliament, allowed by Strowd's act; which their lordships acknowledged to be declaratory of the ancient and necessary rights and privileges of parliament. Their lordships then would not let any matter appear upon record, to the destroying the Commons' privileges; and I wonder how this precedent comes to be cited, to justify a proceeding which tends directly to take away your privileges.—I wish with all my heart the House would have appointed some persons to have searched Precedents, and I am sure they would have found an infinite number to be produced, to have justified the power of the House in this case, how it hath been in their power, time out of mind, how they have a power to punish officers, and in some instances they have given damages. I remember one in my time; Mr. Tankred caused a person to be brought hither, and he cleared himself; and the House (as I remember,) made an Order, that, as he was the occasion of the man's coming up, and had done him an injury, he should make him reparation, and he was forced to do it by paying him a sum of money.—Not that I would go so far as to say, that this House is a

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proper court for imposing fines: But if they are not a proper jurisdiction for the business of their own elections, I think they have no jurisdiction at all. I will not say this House has a power to fine: I know we read something of that in your Journals, but I think those fines came to nothing, because there was no means to estreat them, or cause them to be levied; and so that matter has slept ever since, and I hope, will for ever.—But not only your freedom of debate, but right of sitting in this House, is concerned in this case: And if you have not a power to determine matters of elections to this House, I wonder how any author comes to say this House has any judicature at all; for if they have not a jurisdiction to this, they have no jurisdiction to any purpose whatsoever.—If this point be settled, that this power belongs to the House of Commons, the next consideration will be how to attain it; and in this, I hope gentlemen will take such steps as are proper for them, and for those they represent; for we are sent here *ad tractandum*, &c. in the name of those we represent: And we have but a delegated power, and can't without breach of trust, give up the rights of the commonalty. For my own part I have taken an oath to preserve the privileges of the people that chose me, but, without such an oath, should be of opinion that I cannot give up this privilege which I am to execute on their behalfs; but I will use all the lawful and just methods I can to come at it, and I think you may do this without interfering with the House of Lords, or the judges. There is no doubt but the judges in Westminster-Hall are bound to take notice judicially of your legal proceedings here; and if you come to make a declaration, that the power of hearing and determining all matters concerning elections, does belong to the House of Commons in parliament; I doubt not but they will take notice of it, as becomes them. And give me leave to say, nobody can help bringing this action, as this was done; for a person may take out a writ and declare upon it, and carry it down to trial, without the privity or knowledge of any court; and then, when the cause is tried, the other side comes and moves in arrest of judgment, and the court gives sentence. But I wish the defendant had demurred, and then that would have put it as a point of law to the judges; and if they had determined it judicially for you, I believe it would have gone no further. For it is one thing to determine it upon demurrer, and another thing when the cause has been tried and damages given, to have the court's opinion *ex post facto*.—The judges determined the action does not lie; but as matters stand now, perhaps in like cases, there will be brought a Writ of Error before the Lords, and they will give such a judgment as they have given now, for aught I know. I should not think it proper to come to any question now, by which you shall determine your right, if you are not fully satisfied about it; but it ought to be considered farther. The law and custom of parliament is to be found out by experience and precedents: But if you are satisfied, then I think the proper question is, that by the law and custom of parliament, the hearing, examining and determining all matters concerning election of members to serve in the House of Commons, is to be by the same House. I think that is to be your question, or to that effect.—The consequence will be, if this be part of the law of England, as it plainly is, you may as well stand upon that declaration, as upon any new law to be made by parliament, if you could get it: But I believe you have no great reason to expect a new law in this case to pass in the House of Lords. Then what would you do? If you should try to get a new law and fail, it will be construed, that you had not this power before, but endeavoured to get it, and the House of Lords denied it you. But it is plain and clear you have this power already, and a sufficient ground to stand upon; and I doubt not but Westminster-hall will take notice of it, and the House of Lords too; If they do not——[Here Mr. Lowndes was interrupted by a noise made by some few of the Members, who said, What then? but he proceeded].—I say, if they do not, it will be time enough to confer with them afterwards: And give me leave, I am not afraid to say, if a private man, much more the House of Commons, have the law of England on their sides, let them be undermined ever so much, one way or other they will obtain their right sooner or later. The rights of the people of England are safer in the hands of their representatives than any other; if they do not like them, they can turn them out and chuse new ones; but they cannot do so in the case of the Lords.—I beg pardon for my great prolixity: I take it to be of importance to avoid all contests with the House of Lords, and with Westminster-hall, and I think you may do it, by proposing and adjusting a plain Declaration of your right by the law and custom of parliament."

Mr. *Solicitor General*, (Sir Simon Harcourt, afterwards Lord Harcourt and Lord-Chancellor). "After what hath been said at large concerning the law in this case, especially since it hath received no contradiction in any instance whatsoever; I will avoid the repetition of what has been already offered, and endeavour to shorten your debate, by bringing it something toward a point. It hath been said that the question now before you is, Whether Judgment being given in the Court of Queen's-bench, a Writ of Error does not lie in the House of Lords, to reverse that Judgment? I cannot by any means, agree that to be the question.—But that which I take to be the proper question before you is, Whether or no it be the sole right of the Commons of England to determine their own elections? If you are of that opinion, never let your disease grow to such a head, as to put you upon the necessity of complaining of a Judgment of the Lords, but rather check it in its infancy.—It may per-

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haps sound harsh, that a man shall not be admitted to make use, and have the benefit of the law; and yet when that thought is thoroughly digested, I believe no gentleman in this house, but will agree, that there may be many such instances, where you will not endure any suit at law. I cannot give you any better instances, than what have been mentioned to you by a learned gentleman on the other side, who approves of this proceeding by Writ of Error; the prosecution against sir William Williams for publishing a libel (as it was called) by direction of this House, and an action against the Serjeant for obeying your commands. If such an action should be brought against the Speaker or Serjeant, should we sit still here to see what they would do in the Courts below, and afterwards wait for the event in the House of Lords by Writ of Error? —It is very true, these Judgments that are mentioned by that gentleman continue still unreversed. As to that given against the Speaker, he mentioned it as a Precedent not fit to be followed; indeed, it is a reproach to the House to mention it, since no parliament hath reversed it. As to the other action against the Serjeant, he says, Judgment was given against him, and that stands in full force; as I remember that case, it went off upon the form of pleading.—But nothing of that kind being the question now, I beg leave to state what this action is that is now before us; for gentlemen in the country, who have frequently met with actions, prosecuted without censure for matters relating to elections, may, perhaps, be surprized, till they come to consider what the point is. This is not an action grounded upon any statute whatsoever. It is agreed an action may be maintained where a statute gives a particular remedy, but this is an action founded upon the common-law. Whatever your privileges are, if you will consent to an act of parliament to make other persons judges of those privileges, so far as you consent, if they pursue the power given them by act of parliament, there is no wrong done you: but an action brought at common-law is that which, I think, interferes, with the inherent right of this house.—We have, I think, attained to one piece of knowledge upon this debate, that this was the first action that was ever brought of this kind; and gentlemen will not much wonder why this is brought now, when they consider what endeavours have been used to make this House contemptible. I believe this may be thought the most probable method to attain that end.—I would not repeat the precedents that have been quoted, yet I cannot but take notice of that of Barnardiston and Soame: those arguments that were made use of for this Judgment, in that case were rejected, and the Judgment of the Lords was then directly contrary. I should be very glad to hear how the Lords Judgment of reversal in that case, and in this, are reconcilable. The Commons, at that time, would scarce have suffered such an attempt upon their privileges, and I hope we shall be as careful and as zealous to preserve ours: we have as much power as our predecessors, we shall never suffer for want of power, if we do not suffer for want of will to exert it.—I expect to hear of the great authority of one learned judge, that differed from them; I have the utmost esteem for his judgment, but I am sorry to hear any insinuation, that those judges who have given their opinion otherwise, are guilty of a breach of their oaths. It hath been touched upon, that, whenever any question has been asked the Judges, concernining the privileges of the Lords, or the privileges of the Commons, their answer is recorded for the instruction of all their successors, and, to the honour of both houses of parliament, that it was a matter above their knowledge: the law of parliament is above the judges, the common-law, and is not to be subject to their judgment, it is *alieni fori*.—And, Sir, I have been informed, this was the answer given in the House of Lords by one of the present Judges, and by what I have heard, it was well he escaped their censure; shewing too much respect to this House gave very great offence. —I beg gentlemen to consider, (I shall not enter into particulars that have been mentioned) whether any thing of this kind would not make you despicable, to the lowest degree in the world, and expose electors to such mischiefs that none could endure? Upon every election that comes before you, it is impossible to judge the right of election, but by the right of the electors. If you will endure any person, after you have said he has no right, to go into Westminster-Hall, and bring an action in the courts there, a jury may find a verdict, that the House of Commons are mistaken, and that this person hath a right, and judgment shall be given accordingly. Will not this proceeding, that very moment, submit your resolutions to the examination and censure of the inferior courts? May not they say, they vote for one another, we have detected them all? That they are a parcel of people packed together, and not one of them elected as they should be?—What condition the magistrate will be in, hath been mentioned already; when a multitude hath a right, and every body may bring his action, can any magistrate, (a constable as in this case) bear the expences of a hundred or a thousand actions at law? There will not be wanting some to prosecute a magistrate with all the violence possible.—Though I can by no means agree, that this matter is to be determined according to the common rules and methods of law, but according to the course of parliament; yet I shall compare it with some other cases in the law.—That which makes these persons hardships the greater, is, these magistrates are not people that officiously interpose to take a poll at elections, and make a return; but these are men, who, by the duty of their office, are obliged to do it; and if they do not execute their office, and give you satisfaction, yet if you let this be examined in another place

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after you have said they have done well, they may be punished for doing so.—I will compare this with one or two common cases that have not been mentioned; suppose a person should exhibit an indictment against another maliciously: he does this wilfully, and an action does lie against him; but if a Grand-Juryman find a bill against a man, the law will not admit an averment that it was done maliciously, because he was obliged by his office to do it: so it is in the case of a witness, because he is brought in by the process of the court: so it is in the case of judges. And is it not equally the duty of a magistrate to determine upon the poll, and afterwards to make a return? and is not that examinable before you?—A great deal might be said further upon this, but I hope it is pretty unnecessary: and that no body can have any doubt but that our privileges are very much concerned in this question, and what the consequences would be; therefore I would humbly propose for the question what another gentleman hath hinted at, which may reduce this debate to a particular point.—We certainly have such a thing as the law and custom of parliament, and that is very well known, and upon that foot I desire you would put a question to this effect:

'That the sole right of examining and determining all matters relating to the election of members to serve in parliament except in such cases as are otherwise provided for by an act of parliament, is in the House of Commons; and that neither the qualification of the electors, or the right of the persons elected, is elsewhere cognizable or determinable.'"

Members. "The Question, the Question!"

Mr. *Smith*.—"Sir, I speak only to your order, that gentleman would not interrupt one another by calling for the Question, but give diligent attention to the debate, for this is a matter of great consequence."

Then Mr. Freeman (in the chair) stated a question on his paper to the effect proposed by Mr. Solicitor, and read the same to the committee.

Sir *Christopher Musgrave*.—"I am very willing to hear any gentleman that will stand up and speak, and you have had a very good hint given you by an honourable person, that this is a busines of great moment; and I hope we shall continue to do as we have done, that is, to hear gentlemen patiently: and that we may not be guilty of any disorder, I move you for candles to be brought in."

Then the question was put, and carried for candles. And they were brought in accordingly.

Mr. *Dormer*, (afterwards a Judge).—"Mr. Freeman, you have now a question upon your paper, but that which I take to be the question is, Whether a freeholder, or a freeman, who hath a right to give his vote for his representatives in parliament, may arbitrarily and maliciously be deprived of that privilege, without any redress in any court whatsoever.—This I take to be the case before you, it is said to be of great consequence, and I do take it to be of as great consequence as any thing that ever came before either house; and I don't look upon it only to concern the jurisdiction of the Lords and Commons, but to affect every part of the constitution, and the queen the head thereof, in the highest degree. For it comes to this; if the Lords have not a right to determine in this matter, which by Writ of Error is regularly brought before them, we shall be turned into a state of villenage, and the people will be deprived of chusing their own representatives without relief, and shall not have relief by her majesty in the Court of Queen's-bench, nor before her in the Court of Parliament, where, in consideration of law, she is always present, and where by our law, is the last appeal; and there will be a failure and an interruption of justice, and our constitution, in relation to ourselves, will be so far changed, that it will be impossible there should be any right representatives of the people: for, it will not be the people then that will chuse, but the officer may arbitrarily refuse and return whom he thinks fit, and the particular person will be without remedy. For, whatever gentlemen apprehend if the right of return be not controverted, which way can any particular man bring his case before you? And what remedy shall he have, if not by action? I will not say there has not, (but I will turn the argument, and put it upon them to shew there has;) but I believe there never was any particular application to the committee of privileges, where the injury has been done to a particular man, which is the present case: and this matter is found by a jury that was struck, and not one man of the jury but of quality, and approved on both sides: and I think, though it never came before the parliament, nor the committee of privileges, they might consider of a particular injury.—And as for the notion that hath been taken up, that where the House of Commons have a jurisdiction, there the party is in all cases without remedy in any other court; sure that is not according to truth; for in the case of a false return, there is a public injury that does not hinder the party from obtaining satisfaction as to his particular injury; and if no action lies there can be no satisfaction; for this House hath not awarded damages in any case, notwithstanding the case cited, for that was only costs for the man's trouble in coming up to be examined before this House. And, if they should award damages, there is no way of levying those damages; What writ can we issue out? And if this person be without remedy at law, he must sit down without any redress whatsoever.—There may be a multitude of cases, where this House hath a jurisdiction as far as-

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concerns the public and themselves, and the party shall have his action also. If I receive a blow in this House, it is a violation of the privilege of this House, and this House can take jurisdiction of it, and censure the person that hath done the injury; but will any man say, that an action of battery will not lie at the common-law in that case? There was the Case of sir Thomas Clarges: At the time of his election there was one Roe spoke words to his prejudice: He might certainly have complained to this House of it; you had an instance, I think, last session, of one that complained, for some such injury, against the lord bishop of Worcester, and the House took it into consideration; (which sir Thomas Clarges might have done,) but he brought his action, and recovered considerable damages: and afterwards a Writ of Error was brought in the King's-bench, and Judgment was affirmed.—There is a case not within any provision of your law, and that is, where a sheriff made a return, and he delivered this to a private messenger to bring up to the Crown-Office. The messenger by the way thought fit to vitiate the return, and make another return than what he received from the sheriff: For this an action was brought and he recovered at law against this messenger, for the private damage he had done him. Certainly otherwise the law would be defective.—In another Case, the sheriff adjourned, in prejudice to a candidate, to a corn-field: an action was brought against this sheriff, at law, for the damages he had done this gentleman, and it was maintained, and I dare say more cases may be put; Which shews that your having a jurisdiction as to what concerns the public, does not exclude the party, but he may have an action for his private injury.—A great many positions I have heard, which I take not to be true, particularly this, 'That there is no remedy 'at law, but in cases provided for by the sta-'tutes:' That is not so; these statutes imply the contrary. The first says, Whereas there was not a sufficient remedy, therefore, that gives a more compleat remedy, and so the judges declared in the Case of Barnardiston and Soame.—Sir, they have told us of the Cases of Barnardiston and Soame, and of Nevil and Strode; with humble submission to you, those Cases go so far as to prove the jurisdiction of the Lords, and the inferior courts: That of Barnardiston and Soame, was an action tried before the court of King's-Bench, and a set of as learned judges as ever were before, or since; and three of them were of opinion for the action, and my lord chief justice Hale was one of them; who, the term before he surrendered his character, did thus express himself: 'He gave thanks to 'God, that he had spared him to that time, that 'he was able to keep his cushion, and declare 'his conscience in that place.' But afterwards it had its fate; a Writ of Error was brought in the Exchequer-Chamber; Mr. Justice Levinz, that reports it, says it appears, that those who argued against the Judgment in the King's-bench were made judges, and they themselves afterwards determined the Case. And every body knows how valuable it was at that time, to know the price of an House of Commons, and an English parliament. Three judges were made then in the exchequer, and I think two in the Common-Pleas. Afterwards it came into the House of Lords, and there the reversal in the exchequer was affirmed, for reasons different from what are argued now, and I believe for several good reasons. The sheriff in that case had made a double return, and the sheriff might do it for his own indemnity, for it was no more than finding a special verdict; and therefore the saying, *falso et malitiose*, being put to a thing that was in itself right, would not alter the nature of the thing. Another reason they went upon was, they said this double return was a void return, and for that reason the action did not lie; and upon these reasons depended that Judgment. That gentleman who said that only four or five lords dissented, is under a great mistake; four or five lords only I believe, entered their dissent, but there was a great number, and near an equality against that Judgment: and divers lords, now in that house, were against that Judgment, that did not enter their dissent.—Then, Sir, there is the Case of Nevill and Strode, and that was first a Judgment in the Common-Pleas, and when it had taken its progress in Westminster-hall, it came before the House of Lords; and the Lords returned it back again to Westminster-hall, and ordered all the Judges of England to deliver their Opinion in it. That was founded upon an ordinance of those times: Berkshire was to send five knights, and Nevill was one of them that were elected, but not returned: There they said, in that case that ordinance was entirely new, and that case did not recommend itself by the known laws of the land, and for that reason they would not give Judgment, for wages could not be levied for five such knights. And, when afterwards they were to give Judgment, the right constitution had recovered itself.—Now, as to the Lords right to receive a Writ of Error in this case: You have addressed to them that they would receive a Writ of Error, at a time when your privileges were invaded. That was the case of my lord Hollis, who with others was informed against, 5 Car. for having spoke words in this House that did affect the government: And he pleaded to the jurisdiction of the court, (is there any such thing here? No they have submitted to it;) and the court over-ruled their plea to the jurisdiction, and that Judgment continued in force, (as some others which have been since do now, which it were well if they were reversed,) it is this House took notice of it; and in 1667, they desired a conference with the House of Lords. The chairman was my lord chief-justice Vaughan, and this House there complained how they were grieved by that Judgment; and, after repeated conferences, both Houses did consent to this expedient, that my lord Hollis being the only survivor, should be desired to bring a Writ of Error in the

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House of Lords, and he did so, and the Lords in that case did you justice, and reversed the Judgment. As to your passing this Vote, what it will signify I cannot tell. What signified a Vote you passed before about the year eighty, That the putting the laws in execution against Protestant dissenters, was an injury to the public, and a subversion of the government; and that those that put them in execution, should be looked upon as enemies to the king and kingdom? The consequence was, that all the laws against Popery were put in execution against Protestants more than they were before. The Judges in Westminster-hall said, this Vote had not passed into a law, and they could not take notice of it. I hope we shall do nothing that will lessen ourselves, nor any thing but what will be effectual for the ends for which it is proposed."

Sir *Joseph Jekyll*, (afterwards Master of the Rolls.) "Mr. Freeman, I consider you have been a long time in this debate, and a great deal of it has been spent, either in suggestions contrary to what appears before you, or else in questions altogether improper for the consideration of the Committee, and therefore it is necessary to look back to that which gave occasion to the present dispute.—The Committee hath a copy of the proceedings of this action referred to them, but it hath not been read; and I am confident if it had, and had been attended to by gentlemen, they would scarce have said that the Lords in the Judgment they gave, did any thing in opposition to your Judgment, or in derogation to your privileges.—Before the action was brought, there was a Resolution of the House of Commons, That the right of election for the borough of Aylesbury, was in the inhabitants not receiving alms. It is from that Resolution the Plaintiff hath taken his rise, and hath brought his action; for by his declaration he makes his Case to be, that he was an inhabitant of that borough, not receiving alms; and that the constables, falsly and maliciously, obstructed and hindered him from giving his Vote at the election there. The constables plead, Not Guilty, and the matter goes to a Jury, and they find for the Plaintiff, and give him 5*l.* damages: Which is in effect a finding that the Plaintiff was an inhabitant, not receiving alms, and that he was obstructed and hindered from voting by those constables, and that it was done *falsò et malitiosè*, and to his damage. And this may serve to demonstrate, that the proceeding at law has not been in opposition, but in conformity to your judgment.—Now let us consider, whether the bringing of this action is a violation of your privileges: A great many things have been said not proper for you to deliberate upon; one, that this will encourage a multitude of suits; another, that this action was never brought before, and several other matters which go to the question, whether the action will lie. Now that is not the question here; but the true and only question before you, is, whether this action was brought in violation of your privileges; for, if there be no breach of privilege in it, I know of no authority we have to stop the course of legal proceedings. And as to that, but one thing (as I conceive) has been said materially, which is this, that this is a parliamentary case, and appertains to your jurisdiction; and the judges of the common-law, are not judges of the law of parliament, and therefore they ought not to have given the Plaintiff his judgment, (and it must be admitted the Lords ought not to have given any judgment, but what the judges ought to have given.) To maintain this, it hath been said, and undoubtedly it is true, that this House hath a right to judge elections; and it is as true, that in order to come to that determination, it is incidently necessary that the House do judge of the right of electors; and it has been said, (but that I deny) that the right of the electors is by the law of parliament.—I take the right of every elector in England to accrue to him by the common-law, for he is under one or other of these qualifications: Either he is a freeholder, and then he has a right to vote for knights of the shire; or he has a right by charter, or a right by prescription; which two last rights take in the right of voting in all cities and boroughs. Now I would be glad to know whether the right of a freeholder is not by the common-law? Is it not an estate, with all its privileges and services, created by that law? Whether a right by charter is not by the common-law? Is it not that law that enables the crown to grant charters, and qualifies that power? Whether a right by prescription is not by the common-law? Is not prescription, common-usage? And is the common-law, any thing but common-usage? So that the right of every elector being by the common-law, the judgment of that right is primarily and originally in the courts of law. The freeholders right of voting, is of the essence of his freehold; and you may as well take away his freehold, as take away his right to vote, which he has by virtue of that freehold, and then tell him he must come to the House of Commons to recover it. And the same may be said of those several interests, which gave a right of voting in cities and boroughs. And thus, I hope, I have made it out, that a right of voting is not a parliamentary right, but an ordinary, legal one, and by the common-law. Judges have the judgment of it originally; and it is incidently only that the House has a power of judging of it, and that too according to the rules of the common-law; which is a further demonstration, that it is a common-law right; for it would be absurd to say, a man has a right by one law, which is to be judged by the rules of another.—Then what course has the Plaintiff taken? He has a right by the common-law to chuse burgesses for Ailesbury: That right has been invaded, and he has gone to the common-law for redress, and from no other power could he have it; for this House, or the Committee of Elections, cannot give a remedy in this Case, that is, cannot make the person in-

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jured reparation for the damages done him, by obstructing him in the exercise of his privilege: And that is the thing the learned gentlemen, who have spoke in this debate, have passed by: And these are the material points: That this is a right at common-law, and this House cannot apply a remedy.—But it has been said, that the House will examine, not only on behalf of the elected person, but of the electors. It is true, but in order to what? To see whether you have a right member here, and for no other end; for I challenge any gentleman, to shew me one instance of a single man who came hither and complained, that he had a right to vote, and was hindered from voting, and made that solely to be the offence of the officer. Did the House, or would the House receive such a complaint? And yet he may go with that complaint to the law: For whether the person he would vote for be returned or not, the injury is the hindering him from enjoying his privilege: And it cannot be made an injury or not an injury, by matter *ex post facto*; that is, by the officer's returning, or not returning the candidates. And though the officer should repent him, and not carry his injustice so far as to make a false return, yet it is of use, that the law will redress the wrong done to the Voter, and thereby, perhaps, stop the first steps or approaches towards a false return.—But if I should admit the House would receive the single Petition of a voter, who was refused, and when the person he would have voted for was returned, yet the House cannot make him reparation; all we can do, is to censure the officer, but we cannot make the person complaining whole, in point of damages. Indeed it has been said, the House can give damages, and there was an instance given of Mr. Tankred, who complained against a clergyman, and the House ordered Mr. Tankred to pay him costs; So was sir George Meggot ordered to pay costs to the member he causelessly petitioned against, * and the like is provided for at the beginning of every session. But are these instances of any Petitioner repaired in damages by this House? No, these are instances against Petitioners, not in favour of them; nor are damages given in those cases, but costs; all that is provided for, is, that persons frivolously complained against, shall not be out of pocket. And by a mean you have a jurisdiction in point of expences, but not in point of damages; for you may order the wrong doer into custody, and make his payment of costs to the injured person the price of his liberty; but there is no direct remedy, even for costs. But it is apprehended, here may be a clashing of jurisdictions, and if the party should be allowed to go to law, the courts of law may be of one opinion, and this House of another. This is a supposition the law does not allow of, for this is to suppose courts of justice will not do right. It will be allowed to me that your determination will always be just, and other courts the law supposes will do right too, and then they will determine as you; and your determination, and that of the law, as I said before, has been the same in this case. But then, as the supposition of law is, that all courts will do right, so human frailty supposes there may be, an error in Judgment: And yet courts must have jurisdiction, or else there can be no administration of justice among men, since there is no judicature short of another world, that can pretend to an unerring judgment. And now I will shew you the several courts have different jurisdiction of the same fact, and the law allows them, notwithstanding there may be diversity of judgments. The court of Common-pleas may punish a person for assaulting an officer in the execution of their process, as a contempt to that court; but at the same time, for the same matter, the offender may be punished in the King's-Bench, as it is a breach of the public peace; and the officer may, if he pleases, bring his action in the court of Exchequer for the damage done him. I would observe a little upon the cases cited, and that as short as possible; The first is that of Nevill and Strode: I have looked into the Journal of 1659, and the only book of our law, where that case is re-

* The Case of sir George Meggot, 23 Nov. 8 Willielmi R.

A Complaint being made to the House, that sir George Meggot had prosecuted at law several persons, for what they had testified the last session at the committee of privileges and elections, upon hearing the matter touching the election for the borough of Southwark; it was referred to the committee of privileges to examine the matter of the said complaint, and report their opinion.

4 Decemb. 8 Willielmi. A report was made of the matter of fact, and that the committee had come to this resolution; That sir George Meggot having prosecuted, at law, Thomas Malyn, and John Ladd, for what they testified at the committee of privileges and elections the last session, upon hearing of the matter touching the election for the borough of Southwark, was guilty of a breach of privilege.

The House then agreed with the committee, and ordered sir George Meggot to be taken into custody of the Serjeant at Arms.

The Case of Mr. Tankred, 20 Jan. 9 Willielmi R.

Mr. Tankred complained to the House of a breach of privilege against Mr. Edward Morris, minister of Aldborough, in the county of York; for that the said Morris had intercepted letters of Mr. Tankred's which were sent by the post.

14 Feb. 10 Willielmi R. Mr. Morris attending, was brought in, and the House having heard him, and his witness, resolved, that there was no ground of complaint of breach of privilege, and ordered that Mr. Morris should be discharged from any further attendance, and that he should be paid the charge of his attendance by Mr. Tankred.

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ported, and that is Syderfin's second Reports: and that was upon writs issued out by Cromwell, whereby he appointed counties to chuse differently, some three, some four, some five members. Mr. Nevill who was a member of the long parliament, stood for one of the five knights for the county of Berks; they chose him, but he was not returned, and therefore he brought his action in the Common-pleas: The action depended there some time, and thereupon the justices brought the record into this House for difficulty, and desired the House would come to a determination in it, (and by the way, there was no House of Lords in being at that time; for it was in the time of the long parliament, who had usurped the whole legislative, as well as the executive power:) and no wonder the judges complimented them with the determination of that question, since they were their creatures, and had their commissions from them. Well, but the record being brought in, the House appointed a day to consider of the matter, and when they saw the plaintiff had proceeded according to the known methods of law, they gave no judgment in it, but sent it back to Westminster-hall, and there it was argued, but never adjudged. And that there was no judgment given, is easy to account for, if the judges thought such an action would lie; for at that time, the Long Parliament was upon the point of bringing in the king, and restoring the laws: And if they had given judgment for the plaintiff, they had given a sanction to the highest usurpation of the Protector, and all his wild fancies of changing the constitution at his will and pleasure. And indeed the plaintiff had disaffirmed the authority of the Long Parliament, which he had with great zeal asserted, and of which he was himself a member. But if the judges had thought such an action would not lie, they might, without any scruple, have given judgment for the defendant. And this seems to me a strong authority that Westminster-hall thought such an action would lie: As it is very remarkable, that when that House of Commons (as they called themselves) had usurped the exorbitant power I mentioned before, they did not proceed to assume the jurisdiction of the common law.—The next case is that of Soame and Barnardiston, in which Westminster-hall was divided: My lord Hale was of one opinion, and my lord North of another, and there were six and six of a side, and the matter came by writ of error into the House of Lords, and a gentleman said 800*l.* was worth contending for. But I am apt to think sir Samuel Barnardiston did not hope to recover one farthing of the money, for Soame was dead, and I believe without assets: For, in all the proceedings in the House of Lords, none appeared on the behalf of his widow, she had no council there: But it was argued against sir Samuel Barnardiston, by Mr. Montague, the late Lord Chief-Baron, to vindicate the proceedings of the Exchequer-Chamber, and judgment was given, as hath been said in the House of Lords.—But what happened next? The Commons were so uneasy under that judgment, and the injury which might be done to the people, from whom they derived their authority, by double or false returns, that the next thing was the interpositionof the legislature to apply a remedy, and the Lords came into it, though it was a great discredit to the reversal of that judgment; for the act of the 7th of the late king, declares false returns to be against law, and provides an action shall lie where an officer makes a return falsely and maliciously; they never thought it an ensnaring thing, but knew malice might be tried in that as well as many other cases: And I wonder to hear *falso et malitiosè* should be so much words of course. Men are tried for their lives every day where malice is the main point in issue. If a man does without any provocation kill another, the law intends malice, and that is murder: So here, if an officer refuseth the vote of one, who hath a clear and indisputable right, the law presumes it done maliciously; but if the officer refuses a man's vote, and there is any probable cause, or colour to do it, or his right of voting is doubtful, the judge will tell the jury they ought to find for the defendant; and therefore it is only in a plain and glaring case, that a man can prevail in such an action; and this by the way, is an answer to that objection, that such actions as these will bring all your elections to be determined by the Lords; since an officer can never be found guilty by a jury upon this action, where there is a controversy or dispute, much less can the Lords try or determine any thing of the right.—There is another case, and that is the case of Mr. Onslow against the bailiff of Haslemere; that judgment was against the action; and was given by my Lord Chief-Justice North, and the rest of the judges of the Common-pleas, upon the authority of the judgment in the case of Soame and Barnardiston, in the Exchequer-Chamber: and no wonder; they would not give a judgment contrary to what some of themselves had given in another place.—Sir, this question hath been before this House not long since, Whether a candidate should be hindered from proceeding upon an action at law, before he had come to this House for their determination, whether he wes chosen or no? And this House, upon a solemn debate, adjudged that he might go to law before he had come hither; and I desire your clerk may read a word or two in your Journal, it is Monday, March 13, 1698."

Clerk, reads, [The House being acquainted, 'that John Buller, esq.; who was candidate at 'the election for choice of members to serve 'in this present parliament, for the borough of Lescard, in the county of Cornwall, 'hath brought an action upon the statute 'made in the 7th year of his majesty's reign, 'against Mr. Richard Roberts, mayor of 'the said borough, for the sum of 500*l.* for 'making a false return of William Bridges, esq.; 'although the said Mr. Buller never petitioned

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'against, or questioned the said return in this 'House, and a debate arising thereupon, re-'solved that the debate be adjourned until 'Wednesday morning next.']

Sir *Joseph Jekyll.* Now I desire you to look upon Wednesday the 15th day of March, when that debate was resumed.

Clerk reads. ['This was the 15th day of 'March. The House resumed the adjourned 'debate relating to Mr. Buller; and after a 'long debate, the same fell, without any thing 'done thereupon.']

Members. Well, what then?

Sir *Joseph Jekyll.*—"I take this to be a plain authority, that will govern the case before you: for if it was not reasonable to restrain a man from proceeding at law upon the statute, before he had come hither for a determination, when it was to controvert the very election, which was undoubtedly proper for the judicature of the House; much less will it be reasonable to restrain a proceeding at law, which is not to controvert the election, and upon a case not proper for the judicature of the house; and the House doing nothing upon that complaint, is a declaration, that the House could not justly do any thing upon it. For if a man makes a motion in any other court, and the court declares they will do nothing upon it, I desire to know whether that be not a declaration of that court, that the motion is unreasonable, and it is all the judgment the court gives in such a case. And I had the honour to sit in parliament when that motion was made, and very much pressed; and some that have spoke in this debate, were then of an opinion contrary to what they are now, and were not for stopping the course of law.—Sir, I apprehend the action is well founded in this case; this man had a right to vote, he had an injury done him in respect to that right, he hath sought to be repaired in a proper way, and he could not be repaired in any other: I am for doing nothing to his prejudice, and therefore am against your question."

The *Speaker* (Mr. Harley.)—"Sir, I shall trouble you but with a few words after this long debate: and rather to understand the terms you are debating on, than to think any thing I can offer to be of any great weight. But I take the question not to be as some have represented it, but to be singly this in general, whether an action does lie at common law in the case before you?—There is no need to mention the particular circumstances of Aylesbury election; for if that was the single case, you might have taken another method. I will not insist, that in this very election, a great number of those inhabitants petitioned this House upon this point, that their votes were denied? And after this petition had lain in the House some time, it was withdrawn by their own consent; I do not trouble myself whether this particular man was amongst them, nor will I trouble you with what may reasonably be urged from this; but leave that to other gentlemen.—But I desire we may understand the terms upon which we are debating; we have had maxims of the common law, and the rights of parliament mentioned. The common law is the common usage of the realm; I take the laws of parliament to be the common law of the land, and the usage of parliament to be the law of parliament; and the law of parliament is to be known by usage, as the common law is.—Then how shall we know whether this belongs to the common law? If there be any other way, I should be glad to be informed; but I think there is no other way of knowing, whether an action will lie at common law, but by reason or usage, and precedents. Now, if by reason; it is to be made out by what necessarily attends this case, or some other cases like it. And pray what do they offer, that it lies at common law? do they give you any precedent? what reason do they offer? I suppose that which was read last is no precedent in this case; for that was an action upon the statute; or that the courts below take upon them a legislature instead of a judicature, which must be, if there be no rule for them to go by. I take the question you have read, to consist of two parts; one asserting your own right, the other is negative, that no other courts have any right, but in cases particularly directed by the statute.—I cannot think this of electors and elected a privilege, I take it to be a service both in the electors and elected; and formerly it was reckoned a hard service; I know not how they find it now. It is a service, I take *it*, because all who are electors are liable to pay the wages, and I take that to be a burden: and not only from that, but the very towns that were boroughs, and elected when one paid fifteenths, the other paid tenths; so that I take it to be a service: and if a franchise, see the consequence, it will be in the power of the crown to create as many boroughs as they please.—Then consider, this House is in possession of this power, as of right, and I do not find the common law in possession of any such right. Then what do they offer to bring it in, but that there would be some failure of justice? now I took it, that the Judges are *jus dicere*, and not *jus dare*: if any thing want a provision to be made for it, it must be done by the legislative power; and if the electors want it, provision must be made for them, that they shall have an action. And those gentlemen, who think that necessary, may bring in a bill to that purpose, and take the sense of the legislature upon it in a regular way.—The question before you now is, Whether the examination, hearing, and determination of all matters relating to elections, where some statutes have not particularly directed otherwise, do not belong to this House? There was a famous case of Goodwin, that was contested by the crown, and the crown pretended to send out another writ. And there they say, that as to members of parliament, their attendance, &c. they are the sole judge: and this they laid before king James in the first year of his reign,

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and claim it as their sole right, and the king's second writ was determined to be void.—But a gentleman makes an argument, if one should strike another in the House, what remedy? Why there is a act made for that case in Henry the 6th's time. I think now the matter will turn upon this: Say they, it is true you can try elections, and who are the electors; but here is one thing remains, that is, to give satisfaction. Have they any precedents for this? I believe the precedents are without; they have a power for what is necessary; nothing less than a law can give the other.—Gentlemen say, there may be a difference in judgment in courts below, but they are subordinate, and there lies an appeal: But in this Case, all courts will be co-ordinate with you; and therefore if that be a grievance, nay a solecism in government, prevent it now.—It is said, what will your vote do? That is pretty odd: If they would have an act of parliament, your vote must be the ground of it.—You are judges of the whole; but say some, you cannot give the pecuniary satisfaction. Well, suppose so; but you can restore all to their right. But let me say this, if you would not set up a co-ordinate power with you in matters of elections, and which will be too hard for you at last, I hope it will be a warning to you, to take more care in the judging of your elections for the time to come.—If the judgment belongs to you, and you are possessed of it for so long a tract of time, that nobody can offer any thing against it since Hen. 4's time; till gentlemen shew me some reason, why the common law should lay hold of it, I must be of opinion, that it does belong to you, and no Court can take cognizance of it but you, except where it is otherwise provided for by statute."

Sir *Thomas Meres.* "Sir, I shall not enter into a discourse, and repeat what I remember of former times: I will say but this, let others answer it better if they can. As to the words *falso et malitiose*, it seems one Chief-Justice said, they were words of importance, and must be proved; another Chief Justice said, they were only words of course, that is, like pepper and vinegar to a slice of roast beef: So there is one Chief Justice, that spoke last but one, against another.—As to making satisfaction, I confess, I like very well what that gentleman said on the right hand, if there was any precedent for it, I agree it would do very well, that this House would give damages, and we will make the best of it; but most of these things have spite in them, and these actions are brought with spite. Now this we can do, we can punish the officer, and there is revenge in that; and that is a sweet bit, and some satisfaction. What further occurs to me, hath been spoken by other gentlemen, better than I can do it: and I shall not repeat, it being so late in the night."

Mr. *Cowper*, (afterwards earl Cowper). "I perfectly agree with that honourable and learned gentleman that spoke last but one in this debate, in what he laid down as an undoubted maxim or ground work for the opinion he delivered, that the law and custom of parliament is part of the law of the land, and as such ought to be taken notice of by all persons. And I think it is the exact standard by which we ought to walk; and the deduction of my poor judgment is apt to make from that principle is this, that we ought not, out of zeal to our own jurisdiction, to go one step farther than that known law and custom of parliament will warrant us to do.—Now I take it upon this debate, that this law and custom of parliament doth not give the subject, who is injured by his vote being denied him, any satisfaction, or recompence for that damage: And am the rather confirmed in that opinion, because that very learned and honourable gentleman, who is particularly knowing in the laws and precedents of parliament, has not pleased to represent to you any one precedent, where the subject so injured hath complained to the parliament, and had redress in that particular; but all petitions have been either from the candidates, or electors, complaining of an undue return. So that it cannot be shewed, that it hath been the law and custom of parliament to give that remedy, or relief in parliament, which is the subject-matter, or end of the action now in question.—I go likewise along with him, and every gentleman that hath spoke in this debate, that by the law and custom of parliament, none but yourselves can determine who are rightly elected, in order to displace, or place them here; and, incident to that end, you have the sole right of considering the right of electors; I say so far forth, as it is necessarily incident to determine, who shall, and who shall not sit here; and no other Court can consider the right of the electors, in order to determine the right of any to sit in this place, further than you, by some act of parliament, have given them leave. But this matter having now been disputed a great while, you have had it fully represented to you, how they came to hold the scales in this action in Westminster-hall, not as in a Case where the right of election, or the privileges of this House was the subject matter of the question: The action was brought there only to entitle the injured subject to damages. And this matter ought to be considered, as it relates to different ends and purposes, and upon that it turned in the Case of Soame, and Barnardiston. They who thought that action lay, thought courts below might try the merits of an election to repair damages, not to determine who should be admitted to sit in parliament.—And I will venture to say, that the Judgment of the House of Lords that confirmed that reversal, was in no wise, at that time, satisfactory to the Commons of England.—But the act of parliament that hath been mentioned, was built upon this, that the reversal of the judgment between Barnardiston and Soame was not right, and so that act was procured to set up the right of the Commons of England, that

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was thought to be invaded by that reversal, or judgment, that the action upon the case did not lie.—I will go a step farther, that as you have the sole power to try the right of election, and consider the right of the electors, to the end I mentioned, to determine who shall be admitted here; so I grant it hath been the law and custom of parliament, (how ancient I will not enquire) to punish the offenders, particularly the officer and magistrate presiding at the election, for doing any wrong, or injury in his office on that occasion, in order to make him an example; or as an offender against the public, and the constitution of parliament: so far I grant you have just right to go, and no body ought to interfere with you.—But now we are carrying the matter yet further: the question now is not, Whether we have the sole right to punish the officer as a public offender; this action is not brought to that end, nor is there a word in the declaration who was, or who was not duly elected, or that the constitution or privilege of parliament was violated. But the plaintiff only says he had a right to vote, and that he was injuriously denied it (whether the right or wrong member was returned, he meddles not with it) and he submits it to the court and to the law, Whether he ought not to have damages for that wrong? And the question now is, whether that demand of damages was not well founded? Or whether there is any thing in this, contrary to the law and constitution of parliament? Law depending on custom, certainly consists not in, and is not to be made out by one act, but by often re-iterated acts: and that must be very far from the law and custom of parliament, which is so far from being a frequent repetition of acts, or precedents, that in this case, there is not one instance, where an elector hath brought his petition, without regard to the return made, and desired his particular right to vote might be tried and asserted, he having been obstructed and injured in giving his vote: nor was ever such elector repaired in damages here, nor ever had his particular right to vote resolved, or asserted by any judgment, or declaration of this House.—The learned and honourable person, upon whose reasoning I am humbly offering my thoughts, with great deference, was pleased to instance in the case of five persons, in the town of Aylesbury, who exhibited a petition, and complained of an injury done them at an election for that town, at which their votes were refused. And if they complained of nothing further, and did not conclude to the right of the return, and complain, that they were unduly represented, I admit it had been so far an instance to his purpose. But if they had so complained only of the injury done the petitioners in denying their votes: yet he is pleased to tell you, this petition was withdrawn, and by the consent of the persons who presented it, and so came to nothing. I suppose this is the single precedent to prove the law and custom of parliament, because there is no other instance given. It does not appear upon what ground or reasons it was withdrawn; and I having no particular memory of that passage: you will pardon me, if I am mistaken in my conjecture. I believe no man, that seeks a remedy, would desist, if he expected to succeed; so I take the most probable reason, till another appear, to be, that they were hopeless of doing any good with it: and one petition not prosecuted, will hardly shew, that parliaments use to give redress in such cases. Now, if that precedent had been successful, if the petition had been referred to a committee, if damages had been given upon the complaint, and a declarative vote had passed to assert the petitioners right, (but I did not observe there were any such proceedings;) then, indeed, I must admit, that it was one precedent in point, and a very material one; and it would have proved, that we had once held plea of this matter, and by consequence, if we had often done so, that no body else had to do with it. But if that precedent be defective, and none can shew, that ever any petition was exhibited by any elector, for a personal injury done him in rejecting his vote, though the person he would have voted for was returned, this action may lie for such an injury done to an elector, without interfering with any law, or usage of parliament, that hath yet been made evident; and that brings me to another matter of that honourable person's discourse, and I acknowledge he entered into it with a great deal of candour and fairness.—He was pleased to say, he thought it was admitted in this debate, that the like action is not to be found in all the reports or books of law. I would allow his objection its due weight, and admit what I take his meaning to be, that this action, in the particular species of it, may be new, though it is old in its genus, or the principal materials on which it is built; and I take it, if by the general rule, or reason of law for such an action, it be warranted, this action, as a thousand other actions on the case may, will lie, though in all the parts it is not to be exactly paralleled; for it is the very nature of, and implied in the name of an action upon the case, that every man may maintain it on his particular case, provided it carry in it the general reason, or ingredients required by law to support such an action, though in many circumstances, it may be perfectly new. I see that honourable person understands clearly the necessary incidents of that action; that is, there are to be *damnum et injuria*, which I take to mean a damage to the subject, not arising from a lawful, but, which is the consequence, of an unlawful act. Now, says he, first here is no damage, because anciently the attendance was thought a service and a burden, and the right of electing was a service too, and in being deprived of a service, there can be no damage; and therefore one of the main ingredients of an action of the case is wanting. This is clear reasoning, and either to be answered or submitted to.—It is said, the right of electing was a service, how true, I doubt upon the reason of the thing:

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A service was often a part of the tenure, by which a man held his land till it came up to the crown; and the service was originally created by grant and reservation. Now, can any one imagine, that where one holds a small freehold, any such tenure was created between him and his immediate Lord, originally by reservation, as that he should vote to send members to parliament?—But if it might be considered as a service so created, it will not do the business of the argument, unless you consider it also as a service of burthen, without advantage or privilege; for if it be a privilege too, (though in its creation it might be a service) then the depriving a man of it is an injury. Now no body can think but that the right to elect a parliament-man, which is a distinguishing character from the vulgar, and hath its weight in the legislature, is a privilege; and therefore to be deprived of it, is to be deprived not only of a service and burden, but of a very valuable privilege; and I believe any Englishman would think we dealt hardly by him, to deprive him of it, though we should tell him at the same time, we deprived him only of a service and burden, and not of a valuable privilege.—There is another thing occurs on this head: We have been so far from thinking the being elected, a service or burden only, that, in the nature of a repeal of those judgment of Soame and Barnardiston, by a positive law, we have given the elected double damages if he be deprived of that service. Therefore, by our own notion, and in our case, it is a privilege that ought to be recompensed even with double damages, that is to say, when it concerns ourselves. And shall we declare it a mere service in the case of our electors, not to be recompensed even by single damages and that after the undoubted methods of the common-law have adjudged it their due; for I do not find any body doubts, whether this man has proceeded in the legal method throughout, even in the last resort? The Lords have not judged the fact; they are bound as to the fact by the verdict, and they are unquestionably the judges of the law on a Writ of Error. And therefore, as to what has been said that any fact of an election might come to be determined before the Lords, it is a great mistake, for they judge purely of the law on Writs of Error, as every one knows, that knows any thing of our constitution. Give me leave to say, we, upon this occasion, judge of this matter only as a matter of law, which may affect our privileges, and, though we have authority to consider what is law, as it relates to, or may intrench upon our privileges, no body that sits here can think that there lies an appeal in this place, or a second consideration of this matter after the Lords' Judgment, as it is a point of law only, and as it regards the right of the subject. So that an objection in point of law here, to the Judgment of the Lords, will not hold otherwise than as it relates to our own privileges; for nobody will say, that we are the dernier resort in any other respect. And though that is the only point that brings it properly under our consideration; yet I fear we are taking from the subject, in effect, what the law hath adjudged his right, and reversing a legal Judgment given in the subject's favour. There are other arguments flung in, to make up the weight only, as that which compares the present to the case of a dove-house; in which case, in regard of the multitude of actions that would follow, an action will not lie for every one that is injured by the erecting of it. It is true, where a multitude are injured by one and the same fact, it shall not be punished by a multitude of actions; but the public is to take care of it, because the injury is of a public nature; but by the same standard and known laws of England, if one man is so rash as to commit a multitude of injuries, which severally affect several persons, it was never said, that he became unpunishable by the multitude of his offences, but every one injured has his action against him. I have heard it said, *defendit numerus*, but that is spoken as to the number of offenders, not the number of offences committed by the same man. And these injuries which consist in denying the subject to vote, when of right he ought, will not be multiplied (as is objected) by letting the subject know, that as they may come into parliament to punish the officer, as a public offender against the constitution; so the particular person injured by being denied his vote, may also have an action for the private and particular injury done to him only.—I would mention one thing more: they who have spoke for the other opinion, seem to take it for granted, (which I do not take to be a true way of reasoning) that because, in determining who have a right to sit here, we do incidently, and only can, in order to that end, determine who have a right to vote: therefore no other judicature can try the same matter or right to vote, though it be to different ends and purposes.—Now if you will consider the differeht jurisdictions in the constitution of this kingdom, there is nothing more common, and many instances may be given of it. There are variety of jurisdictions that try the same fact, and yet each hath a sole and separate jurisdiction in that matter, to different ends; and these jurisdictions are not, in that respect, subordinate to another: take the spiritual and temporal; the spiritual is not subordinate, but only restrainable by the temporal, where they intrench upon the temporal; as in the common instance of matrimony, which, directly, and abstracted from other purposes, is triable in the spiritual court, and no where else. But, yet, if that comes to be a question of fact in relation to a title at law, or to make out a descent, why the temporal courts every day try it, though *per se*, and taken by itself, it belongs to the jurisdiction of the spiritual court; and yet these courts are not, in that respect, subordinate one to another.—So, in the case touched upon, of a battery, it is not triable in the Common-pleas, as it is an offence against the public peace, by indictment, in order to a fine, but triable in those courts

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only that have a criminal jurisdiction; but as it is a private injury, and in order to recompense the injured in damages, that is triable in the court of Common-pleas, and other places which have cognizance of civil actions only; and this is not in respect that one court is subordinate to the other, but one holds plea of the same fact, in order to one end; and the other in order to another end; and there is no clashing of jurisdictions in such cases.—For what hath been objected, that this may create variety of judgments concerning the same right: this does not weigh, it seems, in our own cases; for we may bring our actions for double damages for a false return, and yet that may produce the same variety of judgments. So was the opinion of the House in the case cited behind me; and the law is plain, that though the last determination of this House, where there hath been any, shall determine the right of election, and there the judges and jury shall be bound by the last determination, and to act by the same rule; yet, in towns where there has been no dispute of the right settled here one way or other, the candidate may, notwithstanding, bring his action, and he, or the people of the place, may also petition the House of Commons. And then there is the same objection; for there may be variety of judgments touching the right of election, one in the House of Commons and another in the courts below. And upon the trial, in order to obtain damages, a jury, in such cases, where the right had never been settled in parliament before the election in question, are not directed by the judgment of your House, on the same disputed election: nor is any jury bound to follow such judgment; and if you will go upon a supposition that a judge and jury may go contrary to law and right, or the determinations of the House, in the case before you, it is an objection which you have overlooked in your own cases; and therefore why should it be an objection to hinder the person whom you represent of his remedy for the injury done him?—Upon the whole, I am for so much of your question as serves only to declare, that you have the sole power of determining the right of all elections and even the elector's right to vote, to the end to try who is your member, or to punish the officer as an offender against the constitution: so far is agreeable to the constant law and practice of parliament. But for that part of the question which relates to the restraining the electors from bringing their actions for the personal or private damage done to them, I think it is not agreeable to the law or constitution of parliament."

Sir Humphry Mackworth.—"Mr. Freeman, we are much obliged to the gentlemen that have argued on both sides, who have brought the matter of this debate into a narrow compass: the question is, whether an elector be entitled to an action at common-law against the officer, for recovery of damages, in case his vote which he offered, be not taken down in writing, and entered on the poll? or, whether the House of Commons have the sole privilege of examining and determining the right or qualification of every elector to give his vote, and to judge of the behaviour of every sheriff and other officer, in taking the poll on the election of Members to serve in parliament.—I am of opinion, with great submission to better judgments, that the House of Commons have a sole right of judicature in these cases, and that the elector is not entitled to an action at common law. I shall endeavour to support this opinion by answering the arguments that have been made use of to prove the contrary: and first, I crave leave to observe, that the gentlemen who have argued on the other side, have not taken notice of a distinction, which seems to be very material in this case, and that is between an actual force or violence done by the officer, and a bare omission in point of duty. It is agreed, that, in case the officer does by force or violence obstruct, or hinder an elector from offering or pronouncing his vote at an election, for which of the candidates he pleases, the elector will be entitled to an action at common-law for recovery of damages, for that is personal wrong, and does not concern the right or qualification of an elector to vote in elections: but, in case the officer does permit the elector quietly to offer or pronounce his vote, (as he did in the case of Ashby, who pronounced his vote for sir Thomas Lee, and Symon Mayne, esq.) but does not think fit to enter his vote upon the poll, the elector in this case is not entitled to an action at common law for recovery of damages, because he has neither suffered any force or violence, nor is, by such omission, deprived of his vote; for a vote being once pronounced, the law takes it for the benefit of the public, though the officer be wanting in his duty; and none have power to determine whether the elector had a legal vote, and whether the officer had sufficient reason to refuse to enter the said vote in the poll, but the House of Commons. If any other persons should have authority in this case, they will be able to destroy the freedom of elections, and the constitution of parliament.—It is insisted by some gentlemen, that the electors have no proper remedy, in this case, in the House of Commons, and therefore they must have their remedy at common-law: but, with great deference to their judgments, the electors have a proper remedy, in this House, in every respect; for here their votes will be allowed, the legal representatives restored, and the officer will be punished for any wilful default in the execution of his office. This is a remedy that answers the end for which every elector is entitled to give his vote, which is not for a private advantage to himself, but for the general advantage of the whole kingdom. But the action at law is no proper remedy in any respect, for since a vote that is offered and refused, is as good by the law of parliament as a vote that is offered and received, and is so

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adjudged on the trial of every election in the House of Commons, or else they could not fill their House with legal representatives; it is not proper or reasonable that an officer should pay damages to an elector that has not suffered any, nor that a public offence should be punished by a private satisfaction; which is not likely to prevent the evil, preserve the vote, and restore the representative; nor is the same consistent with the constitution or the public safety.—The qualification of electors, and the behaviour of officers, in all elections, are matters of parliament, and such matters are not cognizable elsewhere, as hath been often declared by all the judges of England: a parliamentary case requires a parliamentary remedy. And since votes have been refused in all elections; if electors, in this case, had been entitled to an action at law, it must be presumed, that some time or other such an action would have been brought, which yet was never once attempted in any former reign; and all those acts of parliament that were made to give damages in cases relating to elections, do demonstrate that no such damages could be recovered at common-law; for if they could, there had been no occasion for making any of those statutes.—It is insisted, that every right must have a remedy, but then the subject must be first deprived of that right, which in this case he was not; and, even when he is, he must have his remedy in a proper manner, and in a proper court. There are several sorts of rights and several sorts of laws in England, and there are several courts of justice for the administration of those laws: a man that has a right to a legacy cannot bring an action at common law, but he has a proper remedy in the spiritual court. The like may be observed of cases that belong to the courts of Chancery, Admiralty, Stanneries, and of the Forest-laws. The subject cannot bring actions at common-law, in cases that belong to the jurisdiction of other courts. And when my lord chief justice Coke enumerates the several laws in this kingdom, he gives the precedence to the law and custom of parliament, which he tells us is superior to the common-law in Westminster-Hall. And as every court at law has its customs and privileges peculiar to itself, and is sole judge of them, so also the high court of parliament, 'suis propriis legibus et consuetudinibus subsistit,' hath its own power, laws and customs, and is sole judge thereof. And, if an action at common-law will not lie for a legacy, where the spiritual court has a jurisdiction, though the temporal courts have, in many respects, a superior authority, such an action will much less lie in a case concerning the parliament, which is the highest court of the kingdom, and who are sole judges in all cases relating to themselves. But some carry this further, and say that every right must have a remedy with damages. This may be true in most cases, where a man is deprived of rights of property and possession; but there are many instances to be given, where a right of franchise or privilege is not entitled to any damage: as a person elected mayor of a corporation, if the proper officer refuses to swear him, has no action at law for damages, but his remedy is by *Mandamus* out of the Queen's Bench; there is a remedy by *Quare impedit*, but not to recover damages. In a writ of right you shall recover the land, but no damages: so in this case, the proper remedy is to have the vote allowed, which can only be done by the House of Commons. Some gentlemen have found out a new distinction which I never heard before, that the House of Commons have the sole privilege to judge of the rights of electors, and of the behaviour of officers, to one intent, but not to another; that is, in order to determine who are the legal representatives, but not to give damages to the party injured. But, with great submission, there is no weight at all in this distinction; for, as it is plain that the elector is not in this case, deprived of his vote, and therefore suffers no damage, so it is also evident that the judgment of the House of Commons, in matters properly cognizable before them, cannot be contradicted by any other judicature; and therefore their judgment on the qualification of the elector, and of the behaviour of the officer, must be conclusive to all intents and purposes whatsoever. It is contrary to the reason of all laws, that the behaviour of an officer should be subject to the determination of two independent jurisdictions; or that he should be innocent by the judgment of a superior court, and guilty by the judgment of an inferior; or that he should be twice punished for the same offence. No man can serve two masters; the officer, at this rate, will be every way ensnared and made liable to punishment, whether he does his duty or not; if he accepts illegal votes on the poll, he will forfeit 500*l.* by the statute, for a false return; if he refuses them, he may be ruined by a multitude of actions; for if one may bring an action, there may be five hundred, since every man, at this rate, may offer a vote, and bring an action for not entering it upon the poll. How is this consistent with the freedom of elections, in which there ought to be no terror neither on the electors, nor on the officers? But as the electors should be free to offer their votes, so the officers should be free to judge whether they ought to be entered on the poll, or not; and they ought not to be accountable to any but the House of Commons, whose servants they are, in all matters relating to elections, and who are entrusted with the determination of all matters and cases relating thereto; and they may as well punish them for taking illegal votes on the poll, as for not taking those that are legal. In neither of which cases have the judges of the common law any jurisdiction, though there is the same reason in both, to take care that every the meanest subject may have relief for any injury done him; but we are not to take more care of the meanest subject than of the whole House of Commons. The greatest subject in

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England ought to have no relief but what is consistent with the law of parliament and the safety of the constitution. If an action lies and upon a judgment on that action a Writ of Error lies to the House of Peers, the Lords will be the sole judges at last, who have votes to chuse a House of Commons; which is directly contrary to the fundamental maxim of the law and custom of parliament that the two Houses are mutual checksto each other and sole judges of their own privileges.—This is an excellent constitution and admirably well contrived for the common safety: but how can this constitution be preserved if the Lords can punish our officers and govern our elections? This will be the way to destroy all checks, and to make the House of Commons dependent on the Lords; and then I cannot see upon what foundation you can be said to sit here to do any service for your country. —Others insist that this is a right that is incident to the freehold and freedom of electors; therefore as their freeholds are cognizable at common-law, so is every incident belonging to it. This argument is plausible at first sight, but *in reality* there is nothing in it, for though the Commons of England have submitted their private differences to arbitrators, or judges, indifferently chosen and appointed by the prince, the common parent of the people; yet they have never submitted their fundamental rights and privileges, which they hold in their public and political capacities, as a free branch of the high court of parliament, to any but their own representatives, who are chosen and appointed by themselves. This is not a case, properly speaking, between party and party, but between the Lords and Commons; because the determination of this case brings the whole right in question, who have a privilege to judge of the qualification of electors, to give their votes in election of members to serve in parliament, whether the Lords or the Commons? It is not now the question who hath the best right to a freehold or freedom, or to any thing that is incident to it; but whether the Commons of England shall have any freeholds or freedoms at all? or, which is the same thing in effect, whether they should have any security for those rights or not? For if the Lords are judges of your privileges, you can hold no right but during their pleasure.—The Lords seem to contend for the right of the subject, but I wish it be not for a power to enable themselves to judge and determine, as they think fit, of all our rights and liberties; for this is the necessary consequence of allowing an elector to have a remedy in any other place but within these walls.—This is my humble opinion; and if I am mistaken, other gentlemen will set me right. This is certainly a matter of the highest importance to the welfare of the subject, and I doubt not but they will very well consider it before they give way to the establishing a precedent that tends to destroy the privileges of this House, or the liberties of their country.—A great tenderness is expressed for this poor man, whose vote has been refused: but whether he had a right to give his vote is very much questioned, and never yet determined by this House, who has the proper judicature thereof. But admitting he had a vote, whether ought to be preferred, a private interest or the public safety? Whether will be most for the honour of this House and the interest of our electors, the care of a private person by a new-invented action, neither warranted by reason, precedent or any established law; or the care of the parliament, and the constitution, on which depend the rights and liberties of all the Commons of England. —Sir, I beg pardon for taking up so much of your time, but I must confess it seems to me, that our all depends upon a right determination of this matter: for I cannot see any other reason why this new device is supported by the Lords, but only to render you precarious and useless."

Sir *Gilbert Dolben.* "Mr. Freeman, I shall not trouble you very long at this time of day; I think the point in debate has been truly stated by the gentlemen who insisted on this question, Whether an action will lie for an elector, for having been refused his vote at the election of a member to serve in parliament? A learned gentleman would have the question to be, not whether an action will lie, but whether this House has the sole right of determining that matter, and of giving remedy in it. I confess I think it is more properly stated the other way: but the thing is scarce worth a dispute, since which way soever you turn the tables it comes to the same point, and one of the questions will in consequence be resolved by the resolution of the other. For if that question be put which is proposed by the gentleman, and carried in the affirmative, that this House has the sole right of determining this, and all other matters whatsoever that concern the right of election; then it must follow, that whoever is wronged in any such respect, cannot be redressed by action, since the right of determining in cases of this nature, is not in the courts below, but solely in this House. I shall not offer you any arguments to prove this sole right, many having been urged by others; but I will consider some things (without taking up much of your time), that have been offered as objections to it. Some gentlemen have made a distinction, in this case, between the right of electors and of the elected; and they will have it, that the courts below may decide the first, but not the last; whereas, in my poor opinion, the decision of the elector's right must necessarily, in many cases, decide who has a right to be elected. For suppose a common case, that one of the candidates insists upon an election by a select number, and the other upon a popular election: If, in this case one of the populace be refused his vote, upon a pretence that he is not of the select number, whereupon he brings his action against the officer; will not the event of that trial determine (in consequence) the right of

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the candidates? Surely it must; since if it go for the plaintiff, he for whom the plaintiff offered to vote, and who had the popular interest, will appear to have had the right of election; and so will the other candidate, if it go for the defendant. Several other cases to the same purpose might be put: So that if an action of this nature should lie, it must (as I apprehend) unavoidably follow, that Westminster-hall by original action, and by Writ of Error the House of Lords, will have power to determine, (at least consequentially,) who has a right to sit in this House, and who not. And how consistent such a determination will be with your undeniable right, (acknowledged on all sides) of determining the elections of your members, exclusive of all other jurisdictions, I leave to gentlemen to consider. A learned person was pleased to object, that right is founded upon usage; and if this House had the sole right of judging in a case of this nature, where a single elector is wronged, doubtless there would be some precedent of relief given to such an injured person. But, says the gentleman, there is no such precedent, and therefore it must follow, that this House has not the sole right of relieving in that case. I think I may safely deny his first proposition, as he applies it to the rights of this House, which (generally speaking) are not founded upon usage. Sir, the rights of parliament are chiefly founded upon the nature and constitution of parliaments. Usage is indeed a corroboration, and an evidence of those rights; but the foundation of them, is our being a part of the legislature, whereby we necessarily become invested with such rights and privileges, as enable us to act, and to discharge our duty, in that great capacity: So that it is not so much what has been used, as what is necessary to the support of our constitution, that must be the rule and measure in determining the rights of the House of Commons. But neither has usage been wanting in this case: For whereas the gentleman asserts, that there is no precedent where this House has given relief to a wronged elector, (with submission,) several such precedents appear upon your books, particularly in the case of Banbury, where four or five of the inhabitants complained, and the House gave a remedy. And I cannot see why, if it has been given to four, it may not be given to one; nay, I should think if more than one have been relieved, *à fortiori* one should be relievable. But it seems to me, that the argument drawn from usage, goes much further than the learned gentleman intended it should: for if all right be founded upon usage, all right of action must be so founded; and then what becomes of this action which the gentleman has laboured to support? If usage be nothing else but the repetition of the like acts, then this action (according to the gentleman's rule, that usage is the foundation of right,) cannot be rightful, unless there hath been a repetition of the like action. Nor can it be said, that this is the first time any such cause of action has arisen, and that therefore it could not have been brought before; for there has scarce been a parliament called in any reign, but some or other has, without doubt, been wrongfully refused his vote: So that the cause having been frequent, it must have had the like effect ere now, in case such a wrong could have been redressed by bringing such an action. But no gentleman has pretended to say, that any action of this nature was ever brought before; and therefore we may infer from the learned gentleman's own position, as likewise from the authority of Littleton's text, that, since none has been brought, none can be brought. And this has been the constant opinion of the courts in Westminster-hall, the judges having, upon every occasion, where the rights of parliament have fallen under their consideration, in all times declared, that nothing of that kind is within their jurisdiction; nor can they judge of any such matter, farther than as they are empowered by particular statutes. And this was the reason why the Judgment in Barnardiston's Case, given in the Queen's-bench, was reversed in the Exchequer Chamber, because it was a thing purely of parliamentary cognizance; the House of Commons having the sole power of determining all matters relating to elections and returns, except in statute-cases. Nay, the court of King's-bench had declared, they would not have proceeded in that action of Barnardiston, had it not been grounded by a precedent Judgment given in the House of Commons. But the judges in the Exchequer Chamber thought, that even the determination of the House was not a sufficient authority to the courts below, to hold plea in an action relating to the rights of parliament, though the action was grounded upon that determination; and therefore they reversed the Judgment given in that action, and (which is a mighty strong circumstance in that case) that reversal was afterwards affirmed in the House of Lords. So that it is plain, even the Lords themselves were, at that time, of the same opinion of the judges, that nothing which concerned elections was cognizable in Westminster-hall: For otherwise they could not have affirmed the Judgment given in the Exchequer Chamber, which was grounded entirely upon that maxim. This appears farther, by what their lordships did in the Case of Hollis and Elliot, against whom Judgment had been given in the King's-bench, for what they had said and done in this House. In the year 1667, the House of Commons voted, that the Judgment given in the King's-bench against those persons was illegal, as being against the privilege of parliament. And this vote was (as I remember) delivered to the Lords at a conference, with a desire of their concurrence to it: Accordingly, the Lords sent a message, that they did concur. Nay, they were so zealous, as to desire the lord Hollis to bring a Writ of Error upon that Judgment, which was done, and the Judgment was reversed. From whence it must be inferred, that their lordships were then of opinion, that whatever Judgment is against the privilege

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of Parliament (that is, of either House of Parliament,) is an illegal Judgment.—Now to lay these two opinions of the Lords together: If the House of Commons has the sole privilege of judging all matters relating to elections, (upon which ground their lordships affirmed the reversal of the Judgment in Barnardiston's Case) and if every Judgment given against the privilege of parliament be illegal (as their lordships both resolved, and judged in the Case of Hollis and Elliot,) how comes it to pass, that the Lords have lately thought fit to reverse the Judgment given in this Case of Ashby and White, which was grounded upon that very opinion, established by their Lordships in the Case of Barnardiston, that all matters concerning elections are determinable only in the House of Commons? And consequently, how can we avoid saying, (pursuant to the other opinion, and to the Judgment they gave in the Case of Hollis) that their lordships Judgment of reversal given upon the Writ of Error in Ashby's Case, being against what themselves have owned to be the privilege of the House of Commons, is an erroneous, (not to say an illegal) Judgment?—I confess I cannot much wonder at its being so, when I consider, that the steps their lordships made in proceeding to this Judgment of reversal, were so very hasty, as not to afford them sufficient time to weigh and to deliberate upon a matter of such importance. This cause had depended near a twelvemonth in the King's-bench, it had been argued several times at the bar, and at length *seriatim* by the justices, three of whom, upon the reason of former resolutions, gave Judgment against the plaintiff, that the action does not lie; And yet no sooner was this Writ of Error brought, but the errors are immediately argued; and upon the first argument the opinion of the judges are required; and notwithstanding they desired time but till the next day to consider of the Case, the Lords (as I am very well assured) would not allow them an hour; but obliged them to deliver their present thoughts, which though several of them expressed very doubtfully, and several others were for affirming the Judgment; yet their lordships were so very clear, and so determinate in the point, that, without any farther consideration, the Judgment was reversed.—And now I desire gentlemen to judge, whether, in this instance, the Lords have shewn that regard either to the privileges, or to the dignity of this House, which their ancestors, and themselves, had formerly expressed upon the occasions before mentioned.—I will take notice but of one thing more, which fell from a learned gentleman, who insisted, that the election to parliament is not a service, but a privilege, because double damages are given by the late act concerning returns. I have cast my eye upon that act, and I think, if the preamble be read, it will appear, that gentleman was somewhat unfortunate in appealing to it; for the preamble calls the election to parliament, a service, in express terms, and certainly with good reason; if the House will give me leave, I will read it.—"Whereas false and double returns, of members to serve in parliament, are an abuse of trust in a matter of the greatest consequence to the kingdom, and not only an injury to the person duly chosen, by keeping them from their service in the House of Commons and putting them to great expence to make their elections appear; but also to the counties, cities, boroughs, and cinque-ports by which they are chosen, and the business of parliament disturbed and delayed thereby; be it therefore enacted."——Sir, not to trouble you any longer, I am entirely for the question, as it is stated."

Mr. *King*, (afterwards Lord King, and Lord Chancellor.) "That which calls me up, in the first place, is what that honourable gentleman, just against me, was pleased to intimate, as if the right of electing was only a service, and not a liberty, or privilege; and I find a worthy member, that spoke last, is of the same opinion. Truly, I am loth to tell you my own, without desiring the act 25 Car. 2. 9 cap. may be read. (*Members.* No! no!) It is an act to enable the county-palatine of Durham to send members to parliament, and it recites, that they had not, before that time, had the liberty and privilege of electing and sending any members to parliament: Where you see the legislature call it a liberty and privilege: and if the legislature call it so, I think I may venture to call it so too. And if it be a liberty and privilege, then the question will be, whether it does not stand on the same bottom with our liberties and privileges? In case of any other franchise or liberty, an action lies at common-law for the breach thereof; and why an action should not lie at common-law for the breach of this franchise, as well, as for the breach of every other franchise, is to me very strange. Gentlemen take it for granted, this is purely an action at common-law, and no statute hath any influence on it. Now there is a statute which hath not been mentioned, only I must first premise that which, I think, no body will deny, viz. That wherever an act of parliament does forbid any thing, if any body be injured by the doing of the thing so prohibited by that act, in consequence of law, the person injured hath an action: I say, there is a statute that forbids disturbances or hindrances in matters of elections; and, by consequence of law, the statute gives an action to the party injured, against the person disturbing or hindering him in his election. The statute I mean is the 8 Ed. 1. 5 cap. That is a positive law whereby all disturbances in elections are forbid: every man is forbid to hinder or disturb by force of arms, by malice, or menacing any man, to make a free election.—I shall only instance in one parallel case, though I could in many more, the statute in Rich. 2's time, de Scand. Mag. which only forbids the speaking evil of great men; there is not one word of an action; yet, by operation of law, it was

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always held, that an action would lie upon that statute for a scandal of a great man, because it was prohibited by that statute. So here, the statute forbids the disturbing of any man by force or malice to make free election; the Jury have found, that the defendants did in this case maliciously disturb and hinder the plaintiff from voting at the election; and, by a like consequence and operation of law, this action is maintainable.—Gentlemen say, this is a new action never heard of before; It is true, this particular action was never brought before; but actions of the same kind and nature, and grounded on the same principles and reasons of law, have been brought before 'Et ubi eadem 'est ratio, idem jus.' I could give you many instances of this kind. Was it ever heard, 'till the 20th or 21st Car. 2, that an action lay against an officer, for denying a poll to one who stood candidate for a bridge-master? The mayor denyed the poll, and said, he was judge of the election; and upon this the person injured brought his action, and recovered. At the same time it was said, there was no such action heard of before; 'tis true, not that species, but the genus was heard of. Another action was brought 30 Car. 2, (which was never heard of before) against a mayor, for refusing the plaintiff's vote for a succeeding mayor.—I believe every body knows that all the law books for 400 years say, that the Reversioner has liberty to go into an estate of a tenant for life, to see if he commit waste. And no action was ever brought till 16 Jac. 1, by a reversioner against a tenant for life, for refusing to let him in to see whether waste was committed. No action was ever brought against a master of a ship, for the negligent keeping, and loss of goods on board his ship, till about the 24 Car. 2, and yet the action lay.—There was another action, in k. Car. 1st's time, brought for a false and malicious prosecution of an indictment of a man for treason. There was the same objection; and it was said, that this would deter people from prosecuting. And no body ever dreamt of it before, it is true, but it stood upon the general reason of the law; if you do me a wrong, I must have a remedy. And as to what a worthy gentleman hath said, that there are instances at common-law, where a man shall recover, and yet have no damages; it is true in real actions, but let him give me an instance of that in an action of the case. He recovers nothing there: if he does not recover damages in real actions, he recovers the land itself."

Members. "The question, the question."

Mr. *King.* "I find gentlemen are very uneasy, I will trouble you no further."

Members. "Go on, go on."

Mr. *King:* "I agree the determining the right of election belongs to the House of Commons; and they ought to apply to the House of Commons in that case: and I shall not depart from that, I think I cannot, without ruining the constitution; but that which I say is, that this action does not at all relate to the right of election. This action is brought by a man that hath an undoubted right of voting, against an officer for maliciously refusing his vote. Put the case this had happened in a county, (for the law would have been the same) that a freeholder, who had a right to vote, had tendered his vote to the sheriff; and though he knew he was a freeholder, yet, the sheriff should maliciously refuse his vote: hath the sheriff done this man an injury, or no? This man does not bring his action, because the person he would have voted for is not returned, but it is because there is an injury done to his franchise. If I thought the right of election was concerned in this case, I would go as far as any, for I think that does belong to the House, but I do not think this is concerned in the present case."

Sir *Thomas Littleton.* "I shall be shorter than some imagine. It has been discoursed, whether this be a privilege, or a burden, &c. Let them think it a burden that call it so: if it be a burden it is such a burden as some men spend a great part of their estate for, as if it was a privilege. I think this resolution which is proposed, tends to the encouraging one man to injure another man's franchise without any reparation, which I believe is not very consistent with law or reason. You have no doubt a power of punishing the offenders, but you cannot give damages: I think this is a plain case; here was a man who had a right to vote, and was not admitted."

Members. "No, no."

Sir *Thomas Littleton.* "That is admitted upon the judgment: for the case is made upon the right; and if he had not proved his right, he could not have recovered: then if he was denied his right, no body will say, we can give him damages. What would you have a poor man do, come with a petition, and fee council, and attend the parliament for a month together? The man it seems thought it better to go this way. I think if he had complained, we might have punished the officer; but for damages, he could have them no way but this.—Suppose the judges in Westminster-hall had been of opinion, that this action did lie, and the constables had brought a Writ of Error; what would you have said in a case where a man had been denied his privilege of voting, and the law had given damages, if the Lords had said no, there shall be no action? I think the Lords have done what is right, I think they have relieved the persons injured according to justice; and it does not interfere with your rights, for he founds his actions upon your determination."

Members. "No, no."

Mr. *Walpole.* "Mr. Freeman, I desire to have the question read."

Accordingly Mr. Freeman in the chair read the question again.

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Mr. Serjeant *Hooper*. "A gentleman that spoke last but one, was pleased to say, that if he thought the right of electing members was any way concerned in this question, he would come heartily into it: I know not what that gentleman means by it; but believe all future elections will depend much upon the determination you make now. If you give the Lords this jurisdiction to take cognizance of matters relating to elections, we must come to them to know whether we have a right to sit here. One gentleman said, he could not tell whether the sitting here was a burden, or a privilege: I believe it is a privilege to some, who by sitting here obtain a good place; but I think as to others, it may be looked upon as a great burden, to come up and spend a great deal of money for the public service; and all the privilege that I know they have, is to protect their estates, and serve their country.—There is no extravagant thing that may be brought into the House of Lords, if you countenance them in the jurisdiction they have now taken upon them. Any action whatsoever, let it belong to any temporal jurisdiction, may be there determined. I will still suppose, notwithstanding what is objected against the judges, that they will do their duty; but Westminster-hall is now no barrier; for whatever is there determined, may be brought by Writ of Error into the House of Lords, and they will determine it as they think fit. In the Case of Soame and Barnardiston, the law was taken to be, that Westminster-hall had not a right to intermeddle in these matters. What then hath since altered the law, unless the Lords have the legislative power in them? And that I dare say they will have, if you allow this.—This I must take notice of from the report now before you, that here is a step made, which if it had been made in another jurisdiction, I should have given a hard name to it.—I think, in the first place the party should be brought in by the queen's process. When errors are to be assigned, there uses to go out a *Scire Facias*, which is the queen's Writ; but here is only a Order made, and for what? That the party shall join issue upon the Writ of Error. Suppose there had been a release of errors, must he have joined issue upon the errors? And yet it is here so ordered before the party is heard. I say, if they have a jurisdiction, the party ought to be called in by *Scire Facias*: and no judge, or judicature, can grant execution, or process, but it must be in the queen's name. As for your question, I come heartily into it."

Sir *William Strickland*. "Mr. Freeman, I think this question depends upon two parts, and I believe it the best way to divide your question; one part of it concerns the rights and liberties of this House, and I think every body will come up to it: and as I would not lessen the privileges that belong to the House of Commons, so I would not lessen any privilege of the Commons of England, whom we here represent. As one are the privileges of this house, so the other concerns the liberties of the people of England, who cannot otherwise come to a remedy when they are abused in this manner. The gentleman that called it a hard service, if he would tell his country so, I believe he might be excused, and they would send another in his room."

Mr. *Walpole*, (afterwards Sir Robert, and Chancellor of the Exchequer.) "I will trouble you very little at this time: I think the point of learning and law hath been so well spoken to, by those learned gentlemen that have been against the question, that, if I was able, I should say nothing more to that. But I think the question as it is going to be put, is not right; for as the question stands, though I can't give my negative to one part, I think 'tis impossible to give my affirmative to the other. The matter before you comes to this single question, whether you will encourage, and give a power to an officer, be he whom he will, to act arbitrarily; or rather chuse, in such case, to do something in favour of the electors? I am sure if I desire to be elected by those that had the right, I would never give the officer an authority to the prejudice of the electors. Where you come to say, that the sole judging of the qualification of the electors belongs to the House of Commons only, those I apprehend, are words of too large extent and ill consequence. Suppose there was an action brought upon the last act of parliament, for a false or double return."

Mr. *Freeman*. "There is an exception in the question as to that."

Mr. *Walpole*. "I know there is; but suppose an action is brought upon that statute, the officer may have proceeded with the greatest impartiality, may have taken the poll with the greatest exactness and justice, and there may appear to be an equal number of votes for each candidate; whereupon he makes a double return, and this brings it to be determined by the committee of elections, and they vote one of them duly elected. This gentleman that had the favour of the committee, (though afterwards possibly it might be made appear, that by bribery or corruption, and at a great expence, he procured himself to be elected,) after you have voted him duly elected, he hath nothing to do but to try his action, and see if he can make his double damages amount to his expences. The first thing he is to do is to produce the vote of the House of Commons, that declared him duly elected, contrary, perhaps, to the last determination in parliament, which in every place is to be the guide to the returning officer. But shall there then be given in evidence no qualification of the electors? Nothing to prove that the persons admitted to vote were qualified according to such last determination? Or shall that vote of the House of Commons, that was intended only to bring him into the House, re-

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cover him 5 or 600*l.* damages? I take it to be so as the law stands. Now it ought to be seen who hath the greater number of legal votes, and whether duly qualified; and in that case you must suffer the matter again to be tried by the court, and you do, in some measure, make them judges of the qualifications of the electors; if it were otherwise, they could not inquire into the majority of legal votes.—What happens in the case of a may or, may be in the case of a sheriff: If a mayor or a constable may deny a man his vote that hath an uncontroverted right in a corporation, a sheriff may refuse a freeholder, and strike off enough to make a majority for whom he pleases. You had once the case before you, whether a sheriff could refuse a scrutiny, and one or two gentlemen would have given that power to a sheriff; but a learned gentleman thought it a dangerous question, and he desired to come to the merits of the election; and that was determined, and you voted the worthy member duly elected, and thought it a dangerous thing to determine whether the officer had that power one way or another? I think that part of the question, which concerns the qualifications of the electors, ought to be left out."

Mr. *Freeman.* "I will read the question," (which he did.)

Marquis of *Hartington.* "Sir, I think it is a constant rule, where a question is complicated, it is the right of every member, if he desire it, to have the question divided, and I think it regular to do it by an amendment; and therefore I second that worthy gentleman, that you would leave out those words that relate to the qualification of the electors."

Mr. *Solicitor General.* "My Lord is undoubtedly right in what he desires; that if there be any words in the question to which gentlemen have a dislike, that question is not to be put; but, only whether those words shall stand part of the question: Therefore if those words of the qualification of the electors do give offence, it must be put, Whether they shall stand part of the question? But I hope at the same time gentlemen will apprehend, that leaving out those words, leaves out all you debated on."

Sir *Christopher Musgrave.* "No doubt, if any question is complicated, gentlemen do not know how to give an affirmative or a negative, and you must divide it: But I hope gentlemen will consider the latter part of the question is the main thing whereon you have debated; for, if you do not assert that you have the power of determining the qualifications of the electors, you give up the right of the Commons of England: I do agree that the question may be divided."

Mr. *Freeman.* "That which is debated now, is, Whether these words shall stand part of the question?"

Sir *Thomas Meres.* "Sir, I think the question ought to be divided."

Mr. *Freeman.* "The question, as I have it upon my Paper, is this:

"That according to the known law and usage of parliament, neither the qualification of any elector, or the right of any person elected, is cognizable or determinable elsewhere than before the Commons of England in parliament assembled, except in such cases as are specially provided for by act of parliament."

"But some gentlemen are for leaving out these words, ["Neither the qualification of any elector, or"] So that I must put a question, Whether these words shall stand part of the question?" (*Members.* Aye, aye.)

Then Mr. Freeman put the Question, and the Committee divided.

Teller for the Ayes, Mr. Gulston, - - - 215
Teller for the Noes, Mr. Wylde, - - - - 97

So it was carried, that those words should stand part of the question.

And the main Question being put,

Resolutions of the Commons on the Case.] Resolved, 2. "That according to the known law and usage of parliament, neither the qualification of any elector, or the right of any person elected, is cognizable or determinable elsewhere than before the Commons of England in parliament assembled, except in such cases as are specially provided for by act of parliament."

Resolved, 3. "That the examining and determining the qualification or right of any elector, or any person elected to serve in parliament, in any court of law, or elsewhere than before the Commons of England in parliament assembled, except in such cases as are specially provided for by act of parliament, will expose all mayors, bailiffs, and other officers, who are obliged to take the poll, and make a return thereupon, to multiplicity of actions, vexatious suits, and unsupportable expences, and will subject them to different and independent jurisdictions, and inconsistent determinations in the same case, without relief."

Resolved, 4. "That Matthew Ashby having, in contempt of the jurisdiction of this House, commenced and prosecuted an action at common law against William White, and others, the constables of Aylesbury, for not receiving his Vote at an election of burgesses to serve in parliament for the said borough of Aylesbury, is guilty of a breach of the privilege of this House."

Resolved, 5. "That whoever shall presume to commence or prosecute any action, indictment, or information at common-law, which shall bring the right of electors, or persons elected to serve in parliament, to the determination of any other jurisdiction than that of the House of Commons, except in cases specially provided for by act of parliament, such person and persons, and all attornies, solicitors, counsellors, serjeants at law, soliciting, prosecuting, or pleading in any such case, are guilty of a high breach of the privilege of this House."

Ordered, "That the said Resolutions be fixed

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up on Westminster-Hall Gate, signed by the clerk."

These Resolutions, with this (to wit,

Resolved, 1. "That according to the known laws and usage of parliament, it is the sole right of the Commons of England in parliament assembled, except in cases otherwise provided for by act of parliament, to examine and determine all matters relating to the right of elections of their own members,)" before passed in the Committee, were reported to the House.

Debate thereon.] January 26, 1704. Mr. Freeman reported the five Resolutions agreed to by the Committee, the first Resolution was not opposed, but after the second Resolution (viz.

"That according to the known law and usage of parliament, neither the qualification of any elector, or the right of any person elected, is cognizable or determinable elsewhere than before the Commons of England in parliament assembled, except in such cases as are specially provided for by act of parliament)

Was read the second time by the clerk, the question (according to order) being proposed to agree with the Committee in that Resolution, the marquis of Hartington stood up in his place, and spoke to this effect:

Marquis of *Hartington.* I do not expect the House will be of a different opinion from the Committee; but I think it is my duty, when I apprehend what you are doing will be of ill consequence to the constitution, to give my dissent in every step. I think it will be dangerous to the very being of this House: If this maxim had been allowed formerly, I think there would have been no need of taking away of charters, and of *quo warranto's*; by the influence of officers they might have filled this House with what members they had pleased, and then they could have voted themselves duly elected.

Sir *William Strickland.* Mr. Speaker, I cannot agree to this Resolution; I think it deprives the people of England of their birthright: For they who have freeholds in any of your counties, or freedoms in any corporation, have as much right to vote in elections to parliament, as they have to their estates. And if any gentleman would subject them to such arbitrary proceedings, that a sheriff, or any other officer, may deny them this privilege, give me liberty to say, I must be always against any such thing; for though you can punish the officer, you cannot give any satisfaction to him that receives the injury.

Mr. *St. John.* Sir, I do not rise up to trouble you long, but to speak to one point that was mentioned by a noble lord over the way. I shall be as tender as any man alive of doing any thing against the liberty of the people; but I am for this, because I take it to be the greatest security for their liberty. The noble lord was pleased to take notice, that in the consequence the crown would have a great influence on those that are to return the members of the House of Commons; and when they were in, they might vote for one another. I cannot think that the liberties of the people of England are safer in any hands below, or that the influence of the crown will be stronger here than in other courts.

Marquis of *Hartington.* I think that gentleman hath not answered what I said. I shall never have any suspicion of any that sit in this house now; but when those that have no right are returned, and make a majority, I think it will not be safe.

Mr. *Ward.* I do not apprehend that consequence from this Resolution, I think if it was so, this should have been offered before the first Resolution was passed, which hath passed in the House and Committee, *nemine contradicente;* for you cannot determine the right of any members sitting here without determining the right of the electors.

Mr. *Lowndes.* I cannot but think it will be harder to influence this House to get an ill vote, than it will be in another place: However, if I am a freeholder, and have a right to vote in a county, or a freeman, and have a right to vote in a borough, by admitting persons to vote that have no right, it may be as much prejudice to me, for that may make my vote signify nothing: And there is as much injury one way as the other. If all the people of England who have a vote, should go together by the ears in Westminster-hall and dispute there who has a right vote, and who not, I believe the judges of the common-law and noble peers of the other House, would be glad, in a little time, to restore the right where it is, it would breed so much confusion. If gentlemen are not satisfied already, they may easily be so, That there is no defect of power in this House, but they have a power to do justice in all cases of elections, and I hope every body will take care not only to maintain the rights of the people that sent them hither, but the trust lodged in them, which they cannot depart from by the rules of justice.

Then the second, with the other three Resolutions passed in the Committee, was agreed to by the House without a division, with this amendment only, of leaving out [at common-law] in the fifth Resolution.

But the House, though they voted Ashby guilty of a breach of privilege, in commencing and prosecuting the said action, yet there having been no declaration of the House in that case before, they made no order for taking him into custody, as usual in cases of breach of privilege.

PROCEEDINGS IN THE HOUSE OF LORDS.] Upon these Proceedings of the House of Commons, the House of Lords appointed a Committee, who drew up The State of the Case

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upon the Writ of Error in their House; which is as followeth:

The REPORT of the Lords Committees appointed to draw up the State of the Case upon the Writ of Error, lately depending in the House of Peers; wherein Matthew Ashby was plaintiff, and William White, and others, defendants. With the Resolutions of the House of Peers, relating thereunto *.

ASHBY against WHITE, & al' †.

The Plaintiff in this action declares, That the 26th of December, in the 12th year of king William the 3rd, a writ issued out of Chancery, directed to the sheriff of Bucks, reciting, That the king had ordered a parliament to be held at Westminster, on the 6th of February following: The writ commanded the sheriff to cause to be elected for the county two knights, for every city two citizens: and for every borough, two burgesses; which writ was delivered to the sheriff, who made a precept in writing under the seal of his office, directed to the constables of the borough of Aylesbury, commanding them to cause two burgesses of the said borough to be elected, &c. which precept was delivered to the defendants, to whom it did belong to execute the same. By virtue of which writ and precept, the burgesses of the borough, being summoned, did asemble before the defendants to elect two burgesses; and they being so assembled, in order to make such election, the plaintiff being then a burgess, and inhabitant of that borough, being duly qualified to give his vote at that election, was there ready, and offered his vote to the defendants for the choice of sir Thomas Lee, bart. and Simon Mayne, esq. and the defendants were then required to receive and admit of his vote.

The defendants being not ignorant of the premises, but contriving, and fraudulently and maliciously intended to damnify the plaintiff, and to defeat him of that his privilege, did hinder him from giving his vote: so that the two burgesses were elected without any vote given by the plaintiff, to his damage, &c. upon not guilty pleaded, the case went down to trial, and a verdict was given for the plaintiff, and five pounds damages and also costs.

It was moved in the court of King's-bench in arrest of judgment, that this action did not lie, and that point was argued by counsel, and afterwards by the Court.

The Lord Chief Justice Holt was of opinion, that judgment in this case ought to be given for the plaintiff; but Mr. Justice Powel, Mr. Justice Powis, and Mr. Justice Gold being of a different opinion, judgment was entered for the defendant; Whereupon the plaintiff brought a Writ of Error in parliament; and the cause being argued at the bar of the House of Lords by counsel, and ten of the judges, who were present in the House, being heard, and the matter fully debated by the Lords, * the House

* 27 Martii, 1704. "It is ordered by the Lords spiritual and temporal in parliament assembled, That the Report made from the Lords committees appointed to draw up the State of the Case upon the Writ of Error, lately depending in this House; wherein Matthew Ashby was plaintiff, and William White, and others, defendants, and the Resolutions made this day relating thereunto, shall be forthwith printed and published. Matth. Johnson, Cleric. Parliamentor."

† Salkeld's Reports, fol. 19, in Case.

* The Case of William White, Richard Talboys, William Bell, and Richard Heydon, constables of the town of Aylesbury, in the county of Bucks, in the year 1700. In a Writ of Error brought in the House of Lords by Matthew Ashby, upon a Judgment given for the constables against him in the court of Queen's-Bench, last Michaelmas Term, as drawn up by their counsel, and presented to the House.

The Plaintiff, Ashby, being a poor, indigent person, and coming to settle in Aylesbury, the overseers of the poor there warned him out of the parish unless he would give security to save the parish harmless; and to the purpose complained to the next justices of the peace, to get an order to remove him: Whilst this matter was in controversy, the election for burgesses of parliament came on, and the said Ashby offering himself to be polled, the constables, (now the defendants) refused to receive him to poll, being, in their opinions, no settled inhabitant there, nor did he ever contribute to the church or poor, either before or since the election. After the election was over, the said Ashby brought his action on the case against the constables, wherein he sets forth, that he had right to vote for burgesses there, and that at that election he offered to poll for sir Thomas Lee, and Mr. Mayne, and that the constables refused to receive his poll, to his damage of 200*l.*

The constables pleaded Not Guilty, and thereupon a trial was had at the assizes at Bucks, and Ashby got a verdict against them, and had 5*l.* damages given.

Whereupon, according to the constant course of that, and all other courts, it was moved in arrest of judgment in the Queen's-Bench, where the action was brought; that notwithstanding the verdict, which only found the fact, yet no such action did by law lie against the defendants; and after several arguments at the bar, and at last at the Bench, three judges, against the Chief-Justice, held, that the action did not lie, and so judgment was given for the constables.

And now the plaintiff, Ashby, hath brought a Writ of Error in parliament.

The defendants conceive the judgment in the Queen's-Bench well warranted by law.

1. No such action hath ever been brought, notwithstanding the many elections that have been controverted every new parliament; whereby it is evident, that it hath been the

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was of opinion, that the judgment given in the King's-Bench was erroneous, and that the plaintiff had a good cause of action, and ought to have judgment.

To maintain this opinion, these three positions were laid down:

I. The plaintiff, as a burgess of this borough, had a legal right to give his vote for the election of parliament burgesses.

II. That, as a necessary consequence thereof, and an incident inseparable to that right, he must have a remedy to assert and maintain it.

III. That is the proper remedy which the plaintiff hath pursued, being supported by the grounds and principles of the ancient common law of England.

To make good the first position, that the plaintiff has a legal right to give his vote at the election of burgesses for this borough, it was said, that it is well known, the House of Commons consists of knights, citizens, and burgesses.

The knights of shires represent all the freeholders of the counties. Anciently, every the least freeholder had as much right to give his suffrage, as the greatest owner of lands in the county. This right was a part of his freehold, and inherent in his person by reason thereof, and to which he had as good a title, as to receive the natural profits of his soil. This appears by the statute of 8 Hen. 6, cap. 7, which recites the great inconvenience which did arise in the election of knights of the shires, by men that were of small substance, who pretended to have an equal right with knights and esquires of the same county, therefore that right was abridged, and confined only to such freeholders as had 40s. per annum. But thereby it appears, that the right which a freeholder hath to vote in the election for knights of the shire, is an original and fundamental right belonging to him as he is a freeholder.

The second and third sort of men, which compose the great representation of the people of England, are citizens and burgesses, who, though they differ in name, yet are in essence and substance the same, for every city is a borough, and, as such, sends members to parliament.

There are two sorts of boroughs, the one more antient, the other more modern.

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constant opinion of all lawyers, and others, in all ages, that such action would not lie.

2. Several acts of parliament have been made to give remedy by actions in Westminster-hall, in some particular cases of elections to parliament, which shew there was no remedy at common law in those courts.

3. There never were but three actions upon the case brought by Candidates for false returns, viz. Nevill's case in the late times, and sir Samuel Barnardiston's case, and Onslow's case in the time of king Charles 2, in all which cases the defendants prevailed upon the point of law, viz. that such action would not lie. And if such action doth not lie for one elected, much less will it lie for an elector.

4 To support every action upon the case, there must be damage, *in presenti*, or a possibility of damage *in futuro*, which there cannot be in this case, unless it be presumed, that, contrary to act of parliament, the plaintiff was to have money for his vote.

5. If there was Damnum, (which there is not) yet it cannot be pretended there was injuria; and 'damnum absque injuria,' is not sufficient to support an action upon the case. As at the common law; if the lawful patron presented his clerk to the bishop and he refused to admit him, it is conceived, no action upon the case lay against the bishop, but a *quare impedit*, in which, at common law, no damages were given, which is a much stronger case than this.

6. This is not to be compared to other cases, where the party hath no remedy elsewhere than in Westminster-hall; for here the plaintiff hath a proper remedy by applying to the House of Commons, although the election is not contested by the candidates, and parliamentary causes are to be determined in parliament: And therefore,

7. It is conceived, that, since this matter concerns the election of members to serve in parliament, the courts of Westminster-hall being not empowered by an act of parliament in this case, have no cognizance in it, but the House of Commons have the determination of it: And this jurisdiction is confirmed to them by parliament; for by the act 7 and 8 Will. 3, cap. 7. If any person shall return a member to serve in parliament, contrary to the last determination in the House of Commons, of the right of election, in such place the return shall be adjudged a false return; by which it is evident, that the Commons are the only judges in all matters where the right of election may come in question, as it must of necessity do, in all cases where the question is, who are the electors.

8. If this action should prevail, the chief magistrates, in all places where the elections are made, would be in a miserable condition upon every new parliament, by reason of a multitude of actions, which probably would be brought against them upon all contested elections, and by the different judgments that possibly may be given in the House of Commons, and in Westminster-hall, touching the same election.

9. The laying it to be done *falso et malitiose* (which are grown to be almost words of course in actions on the case) cannot give a jurisdiction where it was not before, and, if those words shall be sufficient, by being annexed to a man's intention, almost all a man's actions may brought into Westminster-hall by those words, and subjected to the power of a jury.

T. POWYS, CON. PRIPPS.

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Of the first sort are the most antient towns of England, whose lands are held in burgage, and by reason thereof had the right and privilege annexed to their estates, of sending burgesses to parliament. The second sort are those cities and boroughs that have a right by prescription, time immemorial, or by charter, within time of memory, to chuse burgesses for parliament: both these are upon several foundations, the one as belonging to their burgages, the other as belonging to their corporations; the first is a real right belonging to their houses and lands, the other is a personal right belonging to their body-politic.

As for the first, it is sufficiently described in Littleton's Tenures, Sect. 162, 163, 164. A tenure in burgage is a tenure in socage, and is called a tenure in burgage, because these are the most antient towns in England, and from thence came the burgesses to parliament, and they who have this privilege, have it as belonging to their estates or possessions.

The other right of chusing parliament burgesses, is not annexed to any freehold or estate in possession, but vested in the corporation of the place, and is created in this manner, viz.

When a town was incorporated, a grant was either then, or after, made to the body politic, that they shall have two burgesses for parliament, to be chosen either by all the freemen and inhabitants of the place, or such a selected number as is prescribed by the charter.

The inheritance of this privilege is in the whole corporation aggregate, but the benefit, possession, and exercise is in the persons of those, who by the constitutions of those charters, are appointed to elect.

And in all cases, where a corporation hath such a privilege, the members thereof, in their private capacity, have the benefit and enjoyment thereof, because, the corporation, as such, is not to be represented: For it is not necessary that it should have any estate, but by being a corporation, they have only a capacity to have estates. Jones 165. Hyward and Fulcher. For as the citizens and freemen of a place are incorporated for the better government of those of the place, so is this privilege of having burgesses given for the advantage of the particular members thereof, whose estates are to be bound by the acts of their representatives.

And therefore the wages of citizens and burgesses were always levied, not upon the estates or goods of the corporation, but upon the goods and estates of the members thereof.*

It appears by other instances, that it is usual and proper for corporations to have interests granted to them, which enure to the advantage of the members in their private capacities. Moore 832. Sir Thomas Waller versus Hanger. The king granted to the mayor and citizens of London, that no prisage be paid for wines of the citizens and freemen of London. This enures to the benefit of every citizen and freeman of London for his own wines, in which the corporation of the city hath no interest.

But there is no such notion in the law of England, as a right without a remedy.

The same thing appears by the Case of Waller and Spateman, 1 Saund. 343. and by a Case of Meller and Walker. These instances make it sufficiently appear, that though the inheritance of this franchise be in the body corporate, yet it is for the benefit of the particular members thereof: And it is certainly a great advantage for the men or inhabitants of a place to chuse persons to represent them in parliament, who thereby will have an opportunity, and be under an obligation to represent their grievances, and advance their profit.

Of this opinion have two parliaments been, as appears by two several acts, the one 34 and 35 H. 8, cap. 13, the other 25 Car. 2, cap. 9. The first is an act for making knights and burgesses within the county and city of Chester, which begins in this manner, In humble wise shew to your majesty, the inhabitants of your grace's county Palatine of Chester, that they being excluded and separated from your high court of parliament, to have any burgesses within the said Court, by reason whereof, the inhabitants have hitherto sustained manifold losses, and damages, as well in their lands as goods and bodies: Therefore it was enacted, that they should have knights for the county, and citizens for the city of Chester: The other act, which constitutes knights and burgesses for the county Palatine, and city of Durham, recites, that the inhabitants thereof hitherto had not the liberty and privilege of electing and sending knights and burgesses to the High Court of Parliament.

The application of these two acts is very plain; the first saith, to be excluded from sending knights and burgesses to parliament, is a damage to lands, goods, and body; the other saith, that it is a liberty and privilege to send them.

Thus the right of election is explained, and shewed to be a legal right.

That of electing knights of shires, belonging to and inherent in the freehold.

The other, of electing burgesses, belongs in some cities and towns to the real estates of the inhabitants; and in others, is vested in the corporation, for the benefit of the particular members, who are the electors; the having of which is a great benefit and advantage to the people thereof, and will prevent great loss and damage that otherwise would ensue.

II. It follows, that in consequence of this right or privilege, the possessors thereof must have a legal remedy to assert and maintain it.

It was said, that there are many rights for which a man has no remedy by the common law, as in case of a legacy given, if it be not paid, the party cannot bring an action for it. This is very true, but not applicable to the present purpose; for the constitution of the Eng-

* 46 Edward 3, M. 4. dorso, &c.

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lish government has wisely distributed to several courts, the determination of proper causes, but has left no subject, in any case where he is injured, without an adequate remedy, if he will go to the right place for it; if a man will seek for a remedy at common law, for a legacy, which by our constitution is to be recovered in the Ecclesiastical Court, it is his own fault if he do not recover; as it would be, if he should begin a suit for land in the Court of Admiralty, or go for equity to the Common Pleas.

He who loses or quits his remedy, loses his right: if a man has a bond for payment of 1,000*l.* he has no remedy to recover this money but by action: therefore, if he releases all actions, he loses right to the money, because he has given away the means to recover it. Coke's 6th Rep. 58, Bredman's Case. If a man purchases an advowson, and at the next avoidance suffers an usurpation, and brings not the *quare impedit* in time, he hath lost all manner of remedy, and in consequence his right, to which neither he nor his heirs can ever be restored. Would it not look very strange in a constitution so formed, that the Commons of England have an undoubted share in the legislative authority, which is to be exercised by their representatives chosen by themselves, in which every freeholder of 40*s.* per ann. hath a right to vote for the county, every citizen for a city, and every burgess for a borough: that, if the sheriff, or other officer, who is to cause the election to be duly made, shall hinder or deprive any of those electors of his right, the person injured shall have no remedy, though the injury be done to such a right, upon the security whereof the lives, liberty, and property of all the people of England so much depend.

That the defendants, in this case, by hindering the plaintiff from voting, have done ill, cannot be denied; because they have excluded one who has a right from his vote. Then, if the law doth not allow an action to the party injured, it tolerates the injury, which is absurd to say is tolerable in any government.

There was much weight laid upon the case of Ford and Hoskins, 2 Cro. 388, Mo. 142, which is, that where, by the custom of the manor, every tenant for life might name his successor for his life, whom the lord is to admit; if one be named, and the lord refuses to admit him, it was held, an action on this case would not lie; because the nominee had no right without being admitted. But the reason given for that opinion shews it has no relation to this case, for the plaintiff's right of voting is vested in him, without any previous admittance, therefore though it should be law, that no action will lie for not giving a right, yet certainly an action must lie, for defrauding and hindering a man to enjoy a right that he hath.

When any statute requires an act to be done for the benefit of another, or to forbear the doing of an act, which may be to his injury, though no action be given in express terms by that statute, for the omission or commission, the general rule of law, in all such cases, is, that the party injured shall have an action, Coke 10 Rep. 75. The Case of the Marshalsea, 12 Rep. 100, Co. Mag. Car. 113. This is a maxim allowed and approved of in all ages.

There is the same reason where the common law gives a right, or prohibits doing a wrong: but in this case an act of Parliament is not wanting, for the statute of West. 1. c. 5, enacts, That elections shall be free; if he who hath a right to vote be hindered by him who is to take his vote, or to manage the election, that election is not free, such an impediment is a manifest violation of that statute, as well as an injury to the party whose vote is refused. This statute of West. 1, shews what opinion the king and parliament had, of the great consequence it was to the whole realm, that people should have their freedom in choice; and though the common law was the same before, as appears even by the statute itself, the words whereof are, Elections ought to be free; yet it was judged necessary to add the sanction of an act of parliament thereunto; the king commandeth, upon great forfeiture, that no great man, or other, by force of arms, or by malice, or menaces, shall disturb any to make free election. The defendants did not, by force of arms, drive the plaintiff away from the election, nor by menaces deter him, but they did maliciously hinder him (so it is charged by the plaintiff in the Declaration, and it is found by the jury to be done by fraud and malice) and so the defendants are offenders within the very words of the statute of West. 1. Where the law is so clear as to the right, and the duty so strictly enjoined by act of parliament to be observed, it seems a great presumption to make it but a light thing.

It being apparent that the plaintiff had a right, and that the defendants have done him wrong, and that by consequence of law he must have some remedy to vindicate his right, and to repair the wrong.

III. The third thing to be shewn is, that the remedy the plaintiff pursued by bringing this action, is the proper remedy allowed by the ancient law of England.

This action is that which is called in the law, an action upon the case; that is, founded upon the particular case of the party injured.

The law, in all cases of wrong and injury, hath provided proper and adequate remedies.

1. When a man is injured in his person, by being beaten or wounded, the law gives him an action of trespass, assault and battery; if by being imprisoned, an action of false imprisonment.

2. If his goods be taken away, or trespass done unto his house or lands, an action of trespass lies to repair him in damages.

3. If a man hath a franchise, and is hindered in the enjoyment thereof, the proper remedy is an action upon the case.

The plaintiff, in this case, hath a privilege

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and a franchise, and the defendants have disturbed him in the enjoyment thereof, in the most essential part, which is the right of voting.

4. Where any officer or minister of justice, entrusted with the execution of the process of law, does an injury, an action of the case lies against him. If the sheriff will not execute a writ by arresting the party-defendant, or taking his goods, the plaintiff shall have his action upon the case, because he refused to do his duty, to the plaintiff's damage.

The precept which the defendants received from the sheriff in this case, was founded upon the king's writ: and the defendants are commanded, to cause two burgesses to be elected for the borough of Aylesbury, of which they are to give notice, and to admit every one who hath a vote to make use of it; if they refuse any man to vote who hath a right, they act contrary to the duty of their office.

It was objected, that it did not appear that the persons for whom the plaintiff voted, were elected, nor that they would have been elected if his vote had been admitted.

The Answer is, that it is not material whether the person for whom the plaintiff voted was chosen, if his vote had been taken; his right and privilege is to give his suffrage, to be a party in the election; if he be excluded from it he is wronged, though the persons for whom he would have given his vote were elected.

The right of action must accrue upon the refusal of the vote, and is never to be made better or worse by the return, which is a matter *ex post facto*.

It was said in the arguing this case, that the plaintiff had no damage; or at least, that there was no such injury or damage done to him as would support an action.

The Answer to that is, that the law will never imagine any such thing as *injuria sine damno*. Every injury imports damage in the nature of it. If a man pick a lock, and come into an house without the consent of the owner, perhaps there is no pecuniary damage done to the value of a farthing; yet the owner shall have an action against him, and recover damages for the invasion of his possession and property. There are many cases of the same nature, which have been determined upon this ground. In the case between Starling and Turner, 24 Car. 2. in con. ban. (see Ventris first part, page 206.) and afterwards in ban. reg. The plaintiff Turner, amongst others stood to be one of the Bridge-Masters of London Bridge, which officer is to be elected by a common hall of the city of London: the question was, who had the greatest number of voices? the plaintiff demanded the poll; and the defendant, being then Lord-Mayor of London, refused it: it was adjudged, that the action was maintainable for refusing the poll; because every candidate has a right to have; and though perhaps if the poll had been granted to the plaintiff in that action, it might have been against him, yet the denial of that right was a good ground of action. Upon the same reason, the case 29 Ed. 3. 18. was determined; and also the case of Hunt and Dowman, 2 Car. 487. 2 Rolls 21.

It is apparent by what has been said, that the plaintiff in this present case hath been injured, in being denied his right; and no good reason can be assigned that so affects this case, as to make it differ from other cases; though to that purpose several matters were urged and insisted upon. As first, that this would be the occasion of many actions.

If that be so, there is the greater reason to support this action, to punish the many wrongs that have been done, which will prevent any more of the like nature. If offences multiply, remedies against them ought to be advanced. If other officers of boroughs have been, or shall be guilty of the like misfeasances, as these defendants have been, it is fit they should be liable, as these defendants are, to make satisfaction. If one man be beat and imprisoned, is it any objection against his having an action, because all others who shall be as ill treated as he hath been, shall have the like remedies? The only means to hinder corruptions that will soon become frequent among those officers of boroughs and corporations, is, to let them see that they are obnoxious to the law, and that their purses must make satisfaction to all whom they shall injure in this manner. It is true, if one act which tends to the injury of many persons be committed, no one person injured shall be allowed to have an action, because the rest might have the same. Co. 5. Rep. 72. William's case, 3 Cr. 664. Pineux ver' Hovenden; as the case of not saying divine service in a chapel of a minor, to the lord and tenants; or for stopping of a lane or common way, because the defendant, for one act, would have a multitude of suits against him, the injury alike affecting a multitude: but the refusal of every vote is a distinct act: the party grieved, whose vote was denied, can only bring an action for the refusal; the others whose votes were admitted are not concerned. And if an officer denies an hundred, who have a right, these are a hundred several wrongs, for which he ought to be liable to as many several actions. As if a man will make it his business to fling stones, and shall hit a hundred several men, he must make satisfaction to them all: but surely this is so far from being an objection, that it is a strong argument to support the action: for if the mayor or bailiff of a borough shall have liberty to refuse men who have votes, he can easily make a majority to vote on his side; and then, what will become of elections? the officer will return him that is elected by a majority of his own making, by excluding the votes of others that have right.

This would encourage officers to be partial and corrupt, and to return divers persons elected in that manner, who at least must have possession of seats in the House of Commons for some time, and give voices in the making laws, and imposing of taxes, until the right of election be deter-

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mined. And though, upon hearing the cause in the House of Commons, this matter may be set right at last; yet, what can compensate for the mischief that may be done to the kingdom in the mean time, by the votes of those who shall be particularly returned, and are not the representatives of the people of the place who are to chuse them.

Besides, the before-mentioned rules against multiplying actions, is confined to such acts where there is another remedy to be had; but where there is no other remedy but an action, the wrong doer must answer to so many several actions as there are persons injured. Suppose a man will plough up the ground in which a hundred persons have a common, he must answer all their actions. If the inhabitants of a town have a common watering place, and a stranger stops the current, whereby the water is diverted, every inhabitant shall have his action, because there is no other remedy.

The injured plaintiff, in this case, has no other remedy besides this action; no indictment lies, because it is a personal wrong to the party, and not wrong to the public, but only in the consequence of it, as an evil example, which tends to the encouragement of other such officers to commit the like transgressions; nor is there any danger to an honest officer, that means to do his duty; for where there is a real doubt touching the parties right of voting, and the officer makes use of the best means to be informed; and it is plain his mistake arose from the difficulty of the case, and not from any malicious or partial design, no jury will find an officer guilty in such a case, nor can any court direct them to do it; for it is the fraud and the malice that entitles the party to the action: In this case, the defendants knew the plaintiff to be a burgess, and yet fraudulently and maliciously hindered him from his right of voting; and justice must require, that such an obstinate and unjust ministerial officer should not escape with indemnity.

That the officer is only ministerial in this case, and not a judge, nor acting in a judicial capacity, is most plain; his business is only to execute the precept, to assemble the electors to make the election, by receiving their votes, computing their numbers, declaring the election, and returning the persons elected: the sheriff or other officer of a borough, is put to no difficulty in this case, but what is absolutely necessary in all cases. If an execution be against a man's goods, the sheriff must at his peril take notice what goods a man has.

Another objection was made in respect to the novelty of the action; it was said, never any such action was brought.

In answer to this objection, it may be said, that probably there have been many occasions given for bringing such suits. It is to be hoped, that very few have ever been so presumptuous as to make an obstinate and malicious refusal of an undisputed vote. If the case has happened before, perhaps the party, out of consideration that only small damages were to be expected, might be discouraged, and think it better to acquiesce. And it is probable, the ill-designing officer would be at least so cautious, as to refuse the votes of such persons only, as he thought, by reason of the meanness of their circumstances, were unable to vindicate their right. It is not every one that has such a true English spirit as the plaintiff, who could not sit down meanly under a wrong done to him, in one of the most valuable privileges of an Englishman. It is not the novelty of the action that can be urged against it, if it can be supported by the old grounds and principles of law: the ground of law is plain, certain, and universal, that where any man is injured in his right, by being either hindered in, or deprived of the enjoyment thereof, the law gives him an action to repair himself.

The Case of Hunt and Dowman, which was, 16 Jac. 1. A. D. 1618, of an action by the landlord against the tenant, for hindering him from searching his house to see whether it was in repair, was never brought before that time: and that of Turner and Starling was not brought till 23 Car. 2.

The law of England is not confined to particular precedents and cases, but consists in the reason of them; which is much more extensive than the circumstance of this or that case: 'Ratio legis est anima legis; et ubi eadem ratio, ibi idem jus,' are known maxims.

An action against the master of a ship, for that the ship, lying in the river of Thames, was robbed, was maintained upon the same reason as against a common carrier; yet, such an action was never known until 23 Car. 2. in the Case of Moss and Slue. 1 Car. 15. Jones 93. Palmer 313. Smith and Cranshaw; an action of the case was brought for maliciously, and, without any probable cause, indicting the plaintiff of high treason: this was the first action that was ever brought in such a case; and yet it was adjudged maintainable, upon the same reason as upon a malicious indictment of felony, 2 Levinz 250. Heming and Beal; an action of the case was brought against the mayor of a town, for refusing the plaintiff to give his vote at the choice of a new mayor: and there was not any scruple made, but that the action did well lie, though that was the first precedent.

It is granted, that if a freeman, who hath a right to give his vote for the choice of a mayor be denied his vote, he may maintain an action upon the case.

There can be no difference between that case and this, unless it can be supposed that the right to vote at the election of a mayor is of a higher estimation in the eye of the law, than a right to chuse members to serve in the high court of parliament.

This action is not only founded upon the reason of the common law, but it hath the sanction of an act of parliament, viz. The statute of West. 2, cap. 24. Which says, that whensoever, from thenceforth, it shall fortune in chancery, that in one case a writ is found, and in a like case falling under like right and wanting like remedy, none is found, the clerk

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of the chancery shall agree in making a writ, and by consent of men learned in the law, a writ shall be made, lest it should happen hereafter, that the king's court might fail in ministring justice to complainants.

The objection most insisted on was, that this is a matter relating to parliaments, and ought to be determined by the law and custom of parliaments, and for that reason is not cognizable in the Queen's courts.

In answer to this objection, it was shewed, first, that this case is proper in the nature of it, to be determined in the Queen's court.

2. There is no other provision made for the plaintiff, who is highly injured in his right, but by bringing his action in the courts of law, that have power to determine of men's lives, liberties and properties.

First, the case in the nature of it is proper for the Queen's courts. This will be apparent, if the several rights of electing members to serve in the House of Commons be considered.

The right of chusing knights of the shire is founded upon the electors freehold. Matters of freehold are determinable originally and primarily in the Queen's court, by the rules and methods of the common law, by a jury sworn, and by the evidence of witnesses upon oath: and, as the right of the freehold is determinable there, so are all benefits, rights and advantages depending thereupon, or belonging thereto.

If a freeholder's voice be refused by a sheriff, what is it should hinder the Queen's court from trying and determining this matter, like all other questions of freehold, by a jury, upon the oaths of witnesses, or evidence in writing, whether the plaintiff that supposes himself wronged was a freeholder, or not?

The right of chusing citizens and burgesses depends either upon prescription or custom, or upon letters patents; these are also primarily and originally cognizable by the Queen's courts: customs and prescriptions are triable by the country, that is, by a jury of twelve men of that country, where the custom is alledged to be: this is a known law in all cases, without exception.

And, as to letters-patents, if pleaded specially, the court must judge of them; and, if either party conceives the court hath judged amiss, he hath his remedy by Writ of Error, till at last it comes where it will receive a final judgment. So that every right which an elector can have, is proper for the determination of the Queen's Court. There are various ways of election in different boroughs, but they all depend upon charters or customs; and therefore are not more difficult to determine, than other franchises or liberties which depend upon the same foundations.

And, whereas it was said, that by a late act of parliament in the 7 and 8 Will. 3, the last determination of the House of Commons concerning the right of elections, is to be pursued; it amounts to no more than this, that the officer who is to make the return is to take care to return him to be elected, who is chosen by a majority of electors, qualified according to the last determination of the House of Commons; if he does so, he incurs no danger, he is not liable to an action, but the House of Commons itself is not bound by that rule. Now, suppose the officer will deny a man a vote, who, according to the last determination there, ought to have one; and this the officer did well know, what is it hinders him that had right, according to that determination, from bringing his action against the officer who hath injured him? It cannot be the act of parliament, for the Queen's courts are by law the first and original expounders of the statutes of this realm.

But, secondly, there is no other court of jurisdiction appointed by the law of England, for determining the right, and repairing this injury, but the courts of Westminster.

It is a general rule, that whoever impeaches the jurisdiction of one court, must entitle some other court to have a jurisdiction of that cause; but that is impossible to be done in this case.

It was said, that the determination of the right of elections of members to serve in parliament, is the proper business of the House of Commons, which they always would be very jealous of; and this jurisdiction of theirs is so uncontested, that they exercise a great power in that matter; for they oblige that officer to alter his return according to their judgment; and affirm that they cannot judge of the right of election, without determining the right of the electors; and if electors were at liberty to prosecute suits touching their right of giving voices, in other courts, there might be different judgments, which would make confusion, and be dishonourable to the House of Commons, and that therefore such an action was a breach of their privilege.

As to these Objections, several Answers were given.

It was admitted, that the House of Commons exercise a jurisdiction, in determining the right of election of their own members; and though the time may be assigned, when that jurisdiction was exercised in another place, yet there has been a usage long enough to hinder that point from being drawn in question, especially after the sanction given to it, by the act made in the seventh year of king William's reign.

But though it be true, that the merit of the election of a member, be a proper subject for the House of Commons to judge of, because they only can give the proper and most effectual remedy, by excluding the usurper, and giving possession of the place to him who has the right; yet there is a great difference between the right of the electors, and the right of the elected; the one is a temporary right to a place in parliament, *pro hac vice*, the other is a freehold, or a franchise: who has a right to sit in the House of Commons may be properly

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cognizable there; but who has a right to chuse, is a matter originally established, even before there is a parliament: a man has right to his freehold by the common law, and the law having annexed his right of voting to his freehold, it is of the nature of his freehold, and must depend upon it. The same law that gives him his right, must defend it for him, and any other power that will pretend to take away the freehold, upon which it depends.

To say the plaintiff, in this case, may apply to the House of Commons, is not sufficient, unless proved: never any single elector of any county or borough did complain to the House of Commons, that he was debarred of his vote, and desire them to determine his particular right. Sometimes some of those who have right to chuse in a borough have complained, that persons have been returned by the officer, who were not duly elected, as being an injury done to the whole community of the borough, to have a person without right sit there as their representative: but this is only to bring the merits of the election in question, of which that House hath cognizance, and therefore, as incident and necessary thereto they may try the right of electors, which of them, by custom, or letters patents, have voices; but this is no more than all courts have. In the ecclesiastical courts, which proceed according to the civil law, if the suit be originally proper for their jurisdiction, they have power to determine things foreign thereto, as if letters patents or conveyances of lands come in question, though primarily and originally determinable in the courts of common law. Matrimony is properly under the jurisdiction of the ecclesiastical court, and if a question arises between the supposed married parties in their life time, or upon dower or bastardy, it shall be tried and determined there: but when an action is brought by a man and woman, supposing her to be his wife, if the defendant pleads in abatement, that they were not married, it shall be tried by a jury where the action was brought; so if any one's title to lands depends on a marriage, if an action be brought to try the title, the marriage may be determined by a jury. This shews plainly, that because the House of Commons may determine who are electors, and who are not, incidently, and so far only as it is necessary to try the right of the election, it doth not follow that when the right of election is not in question they can try the right of an elector.

When the right of the candidate is examined in the House of Commons, it is in order to determine which person hath the right to join with them in the making of laws, and other public services; and if, in order to the determining this point, the House of Commons must judge of the electors, they do it only to this purpose. But the courts of law judge of an elector's right wholly to another end, as it is a right, to assert that, and to repair in damages the elector who is wrongfully hindered from exercising it. This is what the House of Commons cannot do, nor to this day was there ever any application made to do it, and it may reasonably be supposed they will not now begin to take it upon them.

It commonly takes up a great part of the time of a session, to determine the cases of elections, before they can be sure the House is composed of such as have a right to sit; but should they once pretend to take cognizance of particular men's complaints, in order to decide the rights of electors, it would be impossible for them to have any leisure to employ themselves about the 'ardua et urgentia negotia regni,' the safety and defence of the kingdom, for which the writ calls them together. It is granted, that the deciding of the right of electors is a matter of great weight, and, in consequence, concerns the lives and liberties of the subjects of England, but the law hath provided a proper remedy to be pursued in the ordinary methods of justice, a remedy that is adequate, where damages may be recovered. The plaintiff, in this case, knew, he had a right by law to give his vote, and when he found himself deprived of it, he resorts to the law for his remedy: and it is probable, most of the electors of England will be of his mind, and think it for their interest to resort to the courts of Westminster-hall, for asserting this great right of theirs upon occasion, where they may prove their case by witnesses upon oath, and have their damages assessed by their countrymen duly sworn, nothing of which can be done, if they are to seek for a remedy in the House of Commons.

Where a man is injured, if he cannot bring his action to recover the thing itself he hath lost by the injury, the law will always give him damages in lieu thereof.

It was said in the debate of this case, that instances were to be given, where the party injured did not recover damages, as in case where one has a right of presentation, and is disturbed, he could not recover damages at the common law, and that was resembled to the right of an elector, which was said to be only a right of nomination. But the answer to this objection is plain; there the law gives the party a remedy to recover the presentation, the thing that was taken from him, to which he is restored by the judgment; but, in the present case, there is no possibility for the plaintiff to recover the thing he has lost, which was his vote at the election, for that election is over, and can never be had again, so that the plaintiff cannot possibly have any reparation, unless it be in damages, and this sort of reparation the House of Commons cannot give him.

If the plaintiff, and all other injured electors, should be obliged to go to the House of Commons for satisfaction, it may be reasonably supposed, that the parliament may be dissolved before it could come to his turn to have his cause heard: what would be the consequence of this? If the plaintiff must be thereby without remedy, would not the law be notoriously de-

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fective; and yet none will say, that another parliament did ever take cognizance of any injury done, upon account of an election, to a preceding parliament: but, suppose the next House of Commons will determine it, what endless work would the House of Commons be engaged in? for, probably, the ensuing election would make as many new questions as that which went before, and which the parliament did not live long enough to dispatch.

As to what was objected, that the same matter may come in question in the House of Commons, where it may be determined, that the plaintiff hath no right; so that great confusion would arise from different judgments in different courts; it is no more than what may happen every day in Westminster-Hall, where the several courts may be of various opinions upon the same question, and yet no hurt is done to the public; nay, this is no more than happens often in the House of Commons, where the right of election in the same borough is decided different ways in different parliaments, and they do not think themselves dishonoured by it.

This contrariety of judgment can never appear, for the House of Commons never gives a direct judgment, on this or that individual elector's right; the voting is either upon a general question of the competitors, or where the right of election in the borough is placed, whether all inhabitants, or those under a particular qualification, or whether the whole commonalty, or a selected number, have voices, and all these are but ways and means to determine the right of election.

If the House of Commons judge of a particular elector at any time, it is only 'pro ista 'vice,' so far as it relates to the particular case before them; but surely the House never thought the elector's freehold finally concluded thereby, because he is no party to that suit, his right came not there in question originally, but consequently, in a cause litigated between other persons, to which he is no party; and it cannot be agreeable to right reason, or the principles of law, for a man's right to be conclusively determined, in a cause between other parties.

And, after all, where is the damage to the public, if there should be a variety in the determination of the House of Commons, and the courts of Westminster? It is not impossible, in the nature of things; for the courts of law have great advantages, which the House of Commons want; they want the help of juries, and the power of giving oaths, and they ought not to be displeased with their electors, if they resort to courts provided with these powers, for asserting their right of election, especially when it is considered, that the person, whose pretensions the House of Commons approves of, will sit there, which is all they are concerned in: They are the elected: and it would be strange, if that should entitle them to challenge the sole power of deciding the rights of their electors; which is, indeed, to chuse their electors.

It was urged as a great argument against the maintaining this action, that it had been adjudged, in the case of Mr. Onslow, in the 33d year of king Charles 2. (second Vent. 37.) that no action did lie at common law for a false return of a member to sit in parliament; and that in the case of Barnardiston and Soame, it was adjudged the candidate could not maintain an action against the sheriff for a double return; and if the person elected to serve in parliament cannot maintain an action against the officer, it was urged *à fortiori*, that the person electing, who, perhaps, is but a cobler, ought not to be allowed to have such an action.

It was answered, that the law of England has no respect to persons: If an elector be a cobler, he is a freeman of England, and has that great privilege belonging to him to be represented in parliament. It was remembered with what variety of opinion among the judges, that case of sir Samuel Barnardiston was determined, and what an alarm that judgment gave to the House of Commons, to such a degree, that in the session of parliament 1679, a committee was appointed to enquire into it, as a grievance. And it was observed, that the great design of the act of parliament made in the seventh year of the late king (which was often mentioned in the debate of this case to other purposes) was to cure the many inconveniencies arising from that judgment, and the judgment in Mr. Onslow's case, which only followed Barnardiston's, and was judged upon the authority of it. But there is no resemblance between those cases and the case of an elector. In Barnardiston's case of a double return of members, the reason on which the judgment was founded, was, that a double return was no return which the law took notice of, but was only allowed of by the custom of parliament. When an officer, who doubts, makes a double return, he submits to the judgment of the House of Commons; and, if that House admits of such a return, as they have often done, it would be hard the law should subject a man to an action, for submitting a matter of fact, (the truth of which the officer doubts) to the determination of those who have a jurisdiction of the matter, and approve the manner of such a return.

In the other case of a false return of a member, several reasons may be assigned for the judgment, which are not applicable to the case of an elector; perhaps it might be because such a return is a manifest injury to every one of the electors (though principally to the candidate) and therefore it might fall within the reason of William's case above-mentioned, that every elector might sue him; and therefore none of them severally can maintain the action. But there is another reason very obvious, because the candidate has a proper remedy to recover his place, from which he is excluded by the false return; the right of election is cognizable in the House of Commons, there he will recover his seat in parliament, which is what the

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law has the principal regard to, and there is no reason he should have another remedy elsewhere.

It is absurd to say, the elector's right of chusing is founded upon the law and custom of parliament; it is an original right, part of the constitution of the kingdom, as much as a parliament is, and from whence the persons elected to serve in parliament do derive their authority, and can have no other, but that which is given to them by those that have the original right to chuse them; this doth not touch the jurisdiction claimed and exercised by the House of Commons, to try the right of election of their own members; they who pretend to be admitted to sit there, ought to make out their right to the House; but there is no ground to infer from thence, that the House hath power to try or determine the right of other persons, who are not their members, and do not pretend to any place amongst them.

It was said, that if this action were allowed, there would be a way found out for the Lords to let themselves into, to judge of the right of the members of the House of Commons to sit there, and by parity of reason to judge of their own privileges, as if actions were brought for words spoken in the House of Commons, or other things happening in that House; which would be of ill consequence.

But it was said in the first place, that this objection was little applicable to the present case, but it has no relation to the sitting of that member, for whom the elector who brings his action gave his vote.

And, secondly, if things are so ordered by the constitution of the English government, that the ultimate resort in point of judicature is lodged with the Lords, let the case concern what it will, when it is brought before them by Writ of Error, they are bound to give Judgment one way or other; and as to the particular instance mentioned, relating to the words spoken in the House of Commons, it was said, there never was a greater attempt made upon liberty of speech in the House of Commons, than by the information brought in the King's-bench, 5 Car. 1, against sir John Elliot, Denzil Holles, and Benjamin Valentine, esqrs., for words spoke in the House of Commons; they pleaded to the jurisdiction of the court, as being for what was done in parliament, and therefore ought not to be examined or punished elsewhere; but Judgment was given against them, and great fines imposed upon them (Cro. Car. 181.) In the parliament which met in 1640, these proceedings were taken into consideration with great warmth, and the 8th of July, 1641, it was resolved in the House of Commons, that the exhibiting of that information was a breach of the privilege of parliament; and that the over-ruling of the plea to the jurisdiction of the court, and the Judgment, and all that followed thereupon, was against the law and privilege of parliament, and many other severe votes were passed. Thus the matter rested till after the Restoration of king Charles 2; but when things grew to be settled, and there was leisure to consider the consequences of former proceedings, the House of Commons began to think, that those votes were not to be depended upon as a sufficient security, in a case of so high a nature, since upon liberty of speech all parliamentary debates were founded; and they could not think that great privilege safe while so solemn a Judgment stood in force. Therefore, in 1667, the consideration of this matter took up a great part of the session, and the best expedient they could find out was, first, to come to a resolution among themselves, that the Judgment given, 5 Car. 1, in that case, was an illegal Judgment, and against the freedom and privilege of parliament; and then to present this resolution of theirs to the Lords at a conference, which was done December the 10th, 1667, and to desire their concurrence. The next day the Lords concurred in the resolution, and at the same time (which was a thing aimed at and desired by the House of Commons) the Lords ordered the lord Holles to bring a Writ of Error in parliament, to the end there might be a judicial determination of that great point, which was done accordingly; and on the 15th of April, 1668, that cause coming to be heard in parliament, the Judgment in the King's-bench was reversed, to the great satisfaction of the House of Commons.

So little did the House of Commons entertain jealousies of this kind, that they themselves resorted to the judicature of the Lords, in the manner that has been mentioned, upon so weighty an occasion.

It was objected, that many inconveniences would follow, if this action were allowed; but they were very sparing in giving particular instances of those inconveniences.

But nothing is plainer, than that by the plaintiff's prevailing in this action great inconveniences will be prevented, and the subjects' right and property secured against the partialities and corruption of officers, who are trusted in a matter of so great moment, as the receiving and allowing their suffrages upon elections.

This tends to encounter false returns in the first approach, and to have just returns is all the House of Commons ought to desire.

How endless would the inconveniences be, if this action did not lie? How would occasions of complaint be multiplied? The officers who had the return would become the masters of elections, and admit and reject electors as they pleased with impunity; for if the electors are only to seek for a remedy before the House of Commons, it would be a remedy worse than the disease; the greatest part of their cases would never be determined for want of time; and they who could get their cases heard, could have no amends, that is, no damages given them for reparation of the wrong, besides the absurdity of having, for the most part, the parties to the injury, those who sit by a false return, parties to the Judgment.

So that to deny this action, is to deny the

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the benefit of the law in a matter of the most tender concern to an Englishman.

To pretend it to be a breach of privilege of the House of Commons, for an elector to seek for remedy at law, if he be wrongfully excluded of his vote, is very strange.

That certainly can never be esteemed a privilege of parliament, that is incompatible with the rights of the people. Every Englishman is entitled to reparation for the injuries done to his rights and franchises, in the ordinary and common methods of justice, where the juries who try, and the witnesses who give evidence, are to be upon their oaths; Magna Charta, cap 29, is very express. No freeman shall be dissetsed of his freehold, or liberties, or free customs, unless by the lawful judgment of his peers, or by the law of the land.

By the lawful judgment of the peers, in the case of a commoner, is meant, by a jury of lawful men upon their oaths.

If one be injured in such a manner as the plaintiff in this action hath been, no man can say that *per legem terræ*, by the law of the land, he can have a remedy for satisfaction, and asserting his right in the House of Commons; if there be any such law, it must be either statute law, or common law. No statute gives him such a remedy, nor doth the common law, because that is constant usage for time immemorial; and there is not one precedent can be produced, that ever any man, upon such an occasion, did ever apply to the House of Commons for relief.

Upon the 14th day of January, 1704, the House of Lords reversed the Judgment, and gave Judgment, that the plaintiff should recover.

Resolutions of the Lords upon the Case.] This State of the Case being read and approved of, the House came to the following Resolutions, viz.

"It is resolved by the Lords spiritual and temporal in parliament assembled, that by the known laws of this kingdom, every freeholder, or other person, having a right to give his vote at the election of members to serve in parliament, and being wilfully denied or hindered so to do by the officer who ought to receive the same, may maintain an action in the Queen's courts against such officer, to assert his right, and recover damages for the injury.

"It is resolved by the Lords spiritual and temporal in parliament assembled, that the asserting, that a person having a right to give his vote at an election, and being hindered so to do by the officer, who ought to take the same, is without remedy for such wrong by the ordinary course of law, is destructive of the property of the subject, against the freedom of elections, and manifestly tends to encourage corruption and partiality in officers, who are to make returns to parliament, and to subject the freeholders and other electors, to their arbitrary will and pleasure.

"It is resolved by the Lords spiritual and temporal in parliament assembled, that the declaring Matthew Ashby guilty of a breach of privilege of the House of Commons, for prosecuting an action against the constables of Aylesbury, for not receiving his Vote at an election, after he had, in the known and proper methods of law, obtained a Judgment in parliament for recovery of his damages, is an unprecedented attempt upon the judicature of parliament, and is in effect to subject the law of England to the Votes of the House of Commons.

"It is resolved by the Lords spiritual and temporal in parliament assembled, that the deterring electors from prosecuting actions in the ordinary course of law, where they are deprived of their right of voting, and terrifying attornies, solicitors, counsellors, and serjeants at law, from soliciting, prosecuting, and pleading in such cases, by voting their so doing to be a breach of privilege of the House of Commons, is a manifest assuming a power to controul the law, to hinder the course of justice, and subject the property of Englishmen, to the arbitrary Votes of the House of Commons."

The lenity of the House of Commons to Ashby, had not that effect as might have been expected; for before the then following sessions, not only execution was taken out upon the said Judgment, but Mr. Mead brought actions of like nature for John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, five other inhabitants of Aylesbury, for being denied their Votes at the election of members to serve in parliament for the said borough of Aylesbury; of which complaint being made to the House of Commons, they proceeded thereon, as will hereafter appear.

Case of Mr. Bathurst.] January 30. On this day Charles Bathurst, esq. presented a Petition to the House of Commons; setting forth, "That the petitioner, being seized in fee of the manor of Arklegarthdale, within the honour of Richmond, in the county of York, and of several lead mines therein, admitted Robert Squire, and others, to be partners with him in the said lead mines, for a term of years only; and in the 15th year of the reign of king James the 1st a Commission of survey, with Articles of Instructions, issued out of the Court of Exchequer, and an inquisition and survey was taken thereupon, and the boundaries of the honour of Richmond, and lordship of Middleham, and many other manors and lordships bounding thereupon, were set out, and the commission, instructions, inquisition, and survey, were returned into the court of Exchequer, and filed, and became a record of the said court: That, about 20 years since, there was a suit concerning the boundaries of some or one of the said manors, mentioned in the said survey, and the said record was given in evidence on a trial at bar, and came to the hands of Mr. Ralph Grainge, deceased, then an attorney for one of the parties concerned, and, by mistake, was not delivered back into the Exchequer court, till after his death (which was about four years

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since) when it was found amongst his papers, and then delivered into the court of Exchequer, to be filed upon the proper file: That the lord Wharton being seised of the manor of Helaugh in Swaledale, adjoining to the petitioner's said manor, and there being a suit depending in Chancery between the lord Wharton, and the petitioner and his partners, concerning the right of some lead mines, which intirely depended upon the boundaries of their manors, the lord Wharton opposed the filing of the said record, pretending some ill practices in one of the attorneys of the Exchequer, and that the record having been out of the court many years, if ever filed, yet it could not be known, what hands it had been in, or whether it had been altered; but, after hearing counsel several times, and great consideration had, the Court of Exchequer, the 15th of July, 1701, made an order for filing the said commission, articles, inquisition, and survey, on the proper file: That, upon hearing the said cause in Chancery, an issue was directed, to try, in which manor the lead mine in question lies; and at the trial, at the bar of the Queen's-bench, the petitioner gave the said Record in evidence (though the lord Wharton's counsel opposed it) and a verdict was given for the petitioner: Thereupon the lord Wharton appealed to the House of Peers from the said Order of the 15th of July, 1701, and Mr. Squire, (only interested, as aforesaid) was ordered to give his Answer thereunto, and no notice was taken, in the said appeal, of the petitioner, nor any other of his partners; and Mr. Squire having given in his Answer, the Lords, on the 12th of February, 1702, upon hearing counsel on both sides, Ordered, that a trial should be had the next term, at the Common-pleas bar, upon this feigned issue; viz. 'Whether the skins of 'parchment, directed by the order of the Court 'of Exchequer, on the 15th of July, 1701, to 'be filed, are the perfect, unaltered, exact, and 'intire, commission and return, first filed in the 'Court of Exchequer in the 16th year of king 'James the first;' and that in the said action the said Robert Squire should be Plaintiff, and take the proof of the issue upon himself, and the lord Wharton defendant; and that the said skins of parchment, or any copy thereof, should not be given in evidence in any Court whatsoever, until the said trial was over; and that the said skins of parchment (being upon the file, by virtue of the said order of the 15th July) should not be allowed as any evidence, on the said trial, for the Plaintiff: That the Court of Chancery, as is usual, where a right of inheritance is to be bound, directed a second trial, which came on at the Queen's-bench bar in Michaelmas term last; at which trial the lord Wharton's counsel insisted, that the petitioner could not give in evidence the said inquisition, and survey, by reason of the said Order of the House of Peers, of 12 Feb. 1702; and the petitioner's counsel also advising not to offer the said record, or any copy thereof, in evidence, lost his cause, and the Jury found a boundary between the said manors, different from what either side had proved, or so much as opened, or insisted on, at either of the said trials, or in Chancery, and the issue and verdict were recorded for the plaintiff, which could not have been, if the said record had been given in evidence: That by the Lords' said Order the petitioner's inheritance, and the right of many other persons, will be bound, although none were parties before their lordships, nor ever heard touching the said record: That the Order of the 15th of July was not made in any cause depending in the Court of Exchequer, but was made by the Court *ex officio*, to preserve their own record, of which they are sole judges, and (there being no suit depending) there was no ground for an appeal; and therefore their lordships making such Order, as aforesaid, was (as the petitioner conceives) exercising an original jurisdiction, to bind the inheritance of many of her majesty's subjects, without hearing them: That the lord Wharton, endeavouring to impeach the said record, ought to have been the plaintiff in the said issue, directed by the Lords; and conceives it hard to make Squire plaintiff, and much more to lay the burthen upon him, to prove the record to be the perfect, unaltered, exact, and intire, commission, and return, first filed, and to put the validity of the whole record upon that issue; for that the petitioner is advised, that, although a record be, through time, accident, or evil practice, defaced in some part of it, yet, as to such part, as remains legible, it is always allowed to be given in evidence; and the petitioner ought not have been debarred from making use of this record, to support his inheritance; it being the right of every subject, to give in evidence any record, or copy thereof, for defence of his title to any matter in question; and he conceives, there is not the least grounds to suspect, that the said record hath been altered in any part, there being, as the petitioner is informed, and believes, better proofs for the validity thereof, than for any one of the most authentic records now extant in any of the Courts at Westminster, there being divers copies thereof, made long before the same came to the hands of Mr. Grange, which do exactly agree with the said record: And praying relief in the premises, and that the House will take the same into consideration, inasmuch as the making such Orders by the House of Peers will hereafter prove of fatal consequence to the rights and inheritance of the Commons of England."

Resolutions of the Commons on the said Case.] In consequence of this Petition, &c. the House of Commons appointed Committees to inspect the Lords' Journals, as likewise the proceedings of the Chancery and Exchequer court, with relation to the said Case: And upon the whole, came to the following Resolutions:

"That the House of Lords taking cognizance of, and proceeding upon, the petition of Thomas lord Wharton, complaining of an Order of the court of Exchequer, bearing date the 15th

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day of July, 1701, for filing the record of a survey of the honour of Richmond, and lordship of Middleham, in the county of York, is without precedent, and unwarrantable, and tends to the subjecting the rights and properties of all the Commons of England to an illegal and arbitrary power.

"That it is the undoubted right of all the subjects of England, to make such use of the said record, as they might by law have done before the said proceedings of the House of Lords."

Resolutions of the Lords thereon.] After this the House of Lords took into consideration the proceedings of the House of Commons, and made the following Resolution:

March 27. It is resolved and declared by the Lords spiritual and temporal, in parliament assembled, "That the House of Commons taking upon them by their Votes, to condemn a Judgment of the House of Lords, given in a cause depending before this House in the last session of parliament upon the petition of Thomas lord Wharton, and to declare what the law is, in contradiction to the proceedings of the House of Lords, is without precedent, unwarrantable, and an usurpation of a judicature, to which they have no sort of pretence."

"That the Resolution and Declaration made this day, with respect to the Votes of the House of Commons, in relation to the Judgment of this House given upon the Petition of Thomas lord Wharton, the last session of parliament, shall be forthwith printed and published."

Proceedings against the Author of the 'Observator.'] About this time, the author of a weekly Paper called the Observator having ventured to publish his remarks on Occasional Conformity, a complaint was made against him in the House of Commons; and, upon examination of the matter, it was resolved, "That the Observator, from the 8th to the 11th of Dec. 1703, contains matters scandalous and malicious, reflecting upon the proceedings of the House, tending to the promoting of sedition in the kingdom: And that Tutchin the author, How the printer, and Bragg the publisher of that paper, should be taken into custody of the serjeant at arms attending the House." Thereupon Tutchin absconded, and notwithstanding the censure passed upon him, went on in his way of writing, and made sharp reflections upon a Speech said to have been made by sir John Packington, in the House of Commons, in favour of the bill to prevent Occasional Conformity.* A fresh complaint being made again for this second offence, the Commons resolved, "That the author, printer, and publisher of the 'Observator,' having broke the privilege of the House, and since absconded from justice; an humble Address be presented to her majesty, that she would please to issue her royal proclamation for apprehending them, promising a reward for discovery of them."

The Queen's Message respecting the Poor Clergy.] Feb. 7. Her majesty ordered the following Message to be delivered to the House of Commons:

"Her majesty, having taken into her serious consideration the mean and insufficient maintenance belonging to the Clergy in divers parts of the kingdom, to give them some ease, hath been pleased to remit the Arrears of the Tenths to the Poor Clergy; and for an augmentation of their maintenance, her majesty is pleased to declare, that she will make a grant of her whole revenue arising out of the First Fruits and Tenths,* as far it now is, or shall become

* See p. 153.

* "The first-fruits and tenths was an imposition begun by the popes in the time of the holy wars, and it was raised as a fund to support those expeditions. But, when taxes are once raised by such an arbitrary power, as the popes then assumed, and after there has been a submission, and the payments have been settled into a custom, they are always continued, even after the pretence, upon which they were at first raised, subsists no more. Thus this became a standing branch of the papal revenue, till Henry 8 seemed resolved to take it away. It was first abolished for a year, probably to draw in the clergy to consent the more willingly to a change that delivered them from such heavy impositions. But, in the succeeding session of parliament, this revenue was again settled as part of the income of the crown for ever. It is true, it was the more easily borne, because the rates were still at the old value, which in some places was not the tenth, and in most not above the 5th part of the true value; and the clergy had been often threatened with a new valuation, in which the rates should be rigorously set to their full extent. The tenths amounted to about 11,000*l.* a year; and the first-fruits, which were more casual, rose one year with another to 5,000*l.*; so that the whole amounted to between 16 and 17,000*l.* a year. This was not brought into the treasury, as the other branches of the revenue were; but the bishops, who had been the pope's collectors, were now the king's; and persons in favour obtained assignations on them for life, or for a term of years. This had never been applied to any good use, but was still obtained by favourites for themselves and their friends; and, in Charles 2's time, it was distributed chiefly among his women and natural children. It seemed strange, that, while the clergy had much credit at court, they had never represented this as sacrilege, unless it was applied to some religious purpose; and, that during archbishop Laud's favour with king Charles 1, or at the restoration of king Charles 2, no endeavours had been used to appropriate this to better uses. When bishop Burnet wrote the History of the Reformation, he considered this matter so particularly, that he saw there was a

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free from incumbrances, to be applied to this purpose; and if the House of Commons can find any proper method by which her majesty's good intentions to the Poor Clergy may be made more effectual, it will be a great advantage to the public, and very acceptable to her majesty."

The Commons' Address thereon.] Upon which the House of Commons presented the following Address:

"Most gracious sovereign; We your majesty's most dutiful and royal subjects, the Commons in parliament assembled, beg leave to present our most humble and hearty thanks to your majesty, for your most gracious Message, in which you were pleased to declare your royal bounty, in remitting the arrears of the Tenths due from your Poor Clergy: and in charitably designing for the future to apply your majesty's whole revenue arising from the First Fruits and Tenths, in augmentation of their maintenance.—We are justly sensible of your majesty's pious concern for the church of England, and of the great advantage it will receive from your majesty's unparalleled goodness, in giving up such a part of your majesty's revenue towards the better provision for the poorer clergy, who were not sufficiently provided for at the happy Reformation of religion under your royal ancestors.—Your majesty's faithful Commons use their utmost endeavours to render your majesty's charitable intentions most effectual; and will, upon this, and all other occasions, readily apply themselves to such proper methods, as may best conduce to the support of the Clergy, and to the honour, interest, and future security of the church of England as by law established."

The Queen's Answer.] Her majesty was pleased to give this Answer:

"Gentlemen, I am very glad to find my Message has been so acceptable to you; I hope you will effectually improve it, to the advantage of the church of England as by law established, for which nobody can have a more true and real concern than myself."

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fund for providing better subsistence for the poor clergy, there being some hundreds of cures, which had not of certain provision 20*l.* a year, and some thousands, that had not fifty. He therefore represented this case afterwards to queen Mary, in such a light, that she was fully resolved, if ever she lived to see peace and settlement, to have cleared this branch of the revenue of all the assignations that were upon it, and to have applied it to the augmentation of small benefices. The bishops afterwards laid the matter before king William, when there was a prospect of peace, hoping, that this might have gained the king the hearts of the clergy, or at least have put a stop to a groundless clamour raised against him, that he was an enemy to the clergy, which began then to have very ill effect on all his affairs. The king entertained this so well, that he ordered the bishop to speak to the ministers about it, who all approved of it; more particularly, the lords Somers and Hallifax: But the earl of Sunderland obtained an assignation upon two dioceses for 2,000*l.* a year for two lives; so that nothing was to be expected after that. The bishop laid the matter very fully before the princess of Denmark, during king William's life, and had often spoken of it to the lord Godolphin. This time was perhaps chosen to pacify the angry clergy, who were dissatisfied with the court, and began now to talk of the danger the church was in, as much as they had done during the former reign. When the queen's message was brought to the House of Commons, some of the Whigs, particularly sir John Holland and sir Joseph Jekyll, moved, that the clergy might be entirely freed from that tax, since they bore as heavy a share of other taxes; and that another fund might be raised of the same value, out of which small benefices might be augmented. But this was violently opposed by sir Christopher Musgrave, and other Tories, who said, that the clergy ought to be kept still in a dependance on the crown.—Upon the queen's Message, a bill was brought in, enabling her to alienate this branch of the revenue, and to create a corporation by charter, to apply it to the use, for which she now gave it. They added to this a repeal of the statute of Mortmain, so far as that it might be free to all men, either by deed or by their last wills, to give what they thought fit towards the augmentation of benefices. It was suggested, that this addition was made in hope, that it would be rejected by the Lords, and that the scandal of losing the bill might lie upon them. It occasioned a great debate in the House of Lords: It was said, that this law was made and kept up, even during the times of Popery; and it seemed not reasonable to open a door to practices upon dying men. It was answered, That we had not the arts of affrighting men by the terrors of purgatory, or by fables of apparitions. Where these were practised, it was very reasonable to restrain priests from those artifices, by which they had so enriched their church, that, without some effectual checks, they would have swallowed up the whole wealth of the world, as they had indeed in England, during Popery, made themselves masters of a full third part of the nation. The bishops were so zealous and unanimous for the bill, that it was carried and passed into a law. The queen was pleased to let it be known, that the first motion of this matter came from bishop Burnet. Such a project would have been much magnified at another time; and those who had promoted it, would have been looked upon as the truest friends of the church. But this did not seem to make any great impression at that time; nor to have much effect in softening the tempers of peevish men. Only it produced a set of addresses from all the clergy of England, full of thanks and just acknowledgments." Tindal.

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Books censured by the Commons.] March 17. Sir Dudly Cullum reported from the committee, appointed to examine two Books; one intituled, "Second Thoughts concerning human Soul, as believed to be a spiritual immortal substance, united to human Body, to be a plain heathenish Invention, and not consonant to the Principles of Philosophy, Reason, or Religion;" the other, "The grand Essay; or, Vindication of Reason and Religion against Impostures of Philosophy;" and to collect thereout such Parts, as are offensive; and to examine, who is the author, printer, and publisher, thereof; that they had examined the same accordingly, and had collected out of the said Books several passages therein, which they conceive offensive; and that they found, that Dr. William Coward was the author of the said Books; and that Mr. David Edwards was the printer of the one, and Mr. William Peirson was the printer of the other; and that Mr. Basset was the publisher of the said Books: Which Report he read in his place, and afterwards delivered in at the clerk's table; where the same was read, and is, as followeth:

In the "Second Thoughts concerning human soul," &c.

P. 84. "Now the notion of an immaterial, immortal, substantial, being in man, or soul, was one of those principles, I had by education so imbibed; and having thought fit, more strictly to enquire into the reasons or foundation of this belief, I find it to be only an opinion derived down to posterity, as it were, upon trust."

P. 85. "But these grounds of the framing an immaterial immortal soul in man I look upon to be idle and fabulous; and conceive it rather to be the consent and doctrine of the philosophers, in general preaching, that virtue was to be rewarded, and vice punished; and, when they usually saw good men to die untimely deaths, and unrewarded too, being ignorant of a resurrection, taught their scholars, that men's souls, after death, remained alive, to receive the same; i. e. good men, rewards, and ill men, punishments."

P. 88. "Now after the piety of the primitive christians began by secular interest to be perverted, and the ambition of crafty prelates grew so high, as to require to be supported in grandeur and state, then it became convenient to propagate this doctrine to the height."

P. 144. "Thus, upon the whole, we find, how weak and insufficient the arguments of philosophy are, to defend the opinion of an immaterial soul, united to the body; what idle and trifling distinctions they are forced to make, to defend it; what shifts and evasions they frame, to support their notion; insomuch that a man may say, there is no plea, to ground a belief on the philosophers arguments, which pretend to establish two distinct substances, spiritual and material, in man, but only to those, who are resolved not to be informed, and will know no better."

P. 176. "If we allow this conjunction of body and soul to be the union of an immortal immaterial spirit to a mortal material body, where is then the mystery of the hypostatick union? The union of the soul and body no man yet ever allowed to be a mystery of religion: therefore either both must be reputed so or neither."

P. 206. "1. That human soul will cease, when the body dies (*i. e.* life and soul, are the same thing in scripture) and consequently, the common notion of a spiritual immortal substance, united to, or in, man, is erroneous;

"2. That, by the common course of providence, man's immortality begins not until after the resurrection."

"As to the first proposition, thus I argue: If it appear by the whole current of Scripture that life is properly the soul of man, and no text gives us a sufficient ground to call it an immaterial substance; then the soul of man will cease to be, when the body dies: But it appears by the whole current of Scripture, &c. *ergo*, the soul of man will cease to be, when the body dies; and consequently the notion of a spiritual immortal substance, united to, or in, man, is erroneous."

P. 222. "Thessalon. cap. iv. 13, 14.—Who will be changed in a moment, in the twinkling of an eye, at the last trump: For this corruptible must put on incorruption, and this mortal put on immortality, before it can be pronounced, that death is swallowed up in victory. 1 Cor. xv. 51, &c. Where it is very observable, that the apostle, in all the whole course of his writing, says, 'we,' not, 'our bodies:' who cannot be called 'we:' As. 'We shall not all sleep;' 'We shall be 'raised incorruptible;' and, 'we shall be 'changed:' Which could not be true, were the soul, our better part, an incorruptible immortal being already; for that has no change at all, but retains its first immortal nature."

P. 278. "Obj. 14. "Then shall the dust return to the earth, as it was; and the spirit to God, that gave it:" "Therefore, herein is a plain distinction of soul, and body; and that, when we die, our souls will certainly return to God."

"*Answer:* This is the great Goliah argument, generally brought to knock down all opposers; though it argues not for an immaterial spiritual substance, but is rather, and ought to be explained as, a confirmation of my opinion."

Pa. 280. "Thus far, I think, I have sufficiently answered all objections, brought from the Old Testament: And though there occur many of the same nature in the Apocrypha, and, indeed more seemingly opposite to my opinion, yet I shall here pass them by, until the Apocrypha be proved canonical; and so proceed to objections, extorted from the New Testament.

"1. The first I meet with, that seems significant, is this: 'Fear not them, that can 'kill the body, but are not able to kill the soul; 'but rather fear him, which is able to destroy

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both body and soul in hell.' Matth. x. 28. Therefore there is a being in man, distinct from his body, capable of being cast into a place of torment; whereas the body only lies in the power of man, and not the soul, to be destroyed."

P. 283, 284. "*Answer:* If by this text was meant a spiritual, substantial, immortal, soul, no doubt, but that our Saviour knew it, and so did his disciples, to whom he then preached this doctrine; therefore, for our Saviour to instruct them in a doctrine, viz. The impossibility of man's power to kill an immortal spirit, which they must know before, if true, would savour more of trifling, than giving of real instructions in Christianity; for it might easily be returned, that all the world knows, an immortal spirit cannot be killed; so that such instructions are vain, and useless."

P. 285, 286. Luk. xxiii. 43. "This day, says our Saviour to the thief on the cross, 'thou shalt be 'with me in Paradise:' Therefore his soul must be there with our Saviour, or else our Saviour's words could not be admitted for truth; for, be sure, the thief's body was buried, and laid in the ground, as others were."

"*Answer:* This objection, though oft brought, I cannot see of what force it is, unless it be, to tell us, that our Saviour spake to the soul of the thief, when he said, 'thou shalt be 'with me in Paradise,' 'Thou soul of the 'thief, for owning me, shall this day be with 'me in a state of bliss:' But, O thief! thy 'body shall go to corruption, as other bodies 'do.' Now what a speech must such men make for our Saviour, that give such an interpretation of this text, let the learned judge."

In "The Grand Essay," &c.

P. 185. "*Theol.* How could man come by this immaterial substance, but at the first creation? And it is plain there, by express words, that he was made no more than a living creature.

"*Philos.* You had as good throw your cap into the air. All the heathen philosophers preached up man to be made of a soul, called immaterial substance, and body; and if you throw all the Old and New Testament at that doctrine, you will never confound it, or convince its believers to the contrary."

P. 186, 187. "*Theol.* Don't a man die, if he lose his life?

"*Philos.* No; he doth die in his body, but not in his soul; for that lives as well, if not better, than it did in the body.

"*Theol.* Not one word of this, or like it, do I find in the Bible. This is as much as to say, a man doth die, and he doth not die. Pray what is meant by dying in his body?

"*Philos.* His material body dies.

"*Theol.* As far as I find, it never lived; for it was the soul lived all the while; and how can any thing die, which never lived?

"*Philos.* It is no matter how; it is so: the soul, or immaterial substance, gave the body life, and now it is separated, the body is dead.

"*Theol.* What chapter and verse, for your immaterial living substance, in the Bible?

"*Philos.* I told you, you were always for Scripture. It is so by philosophy, that is enough: And so, if a man is said to sleep in death, he is as fully awake in his soul, the next minute of separation, as ever he was in his life in this world.

"*Theol.* A pretty way of sleeping indeed! You philosophers make us believe any thing, I will be stigmatized [for a fool*] all my life time, if you can bring the like case, where so many absurdities, without any warrant from Scripture, or common reason, are believed."

That Mr. Bassett was called in to the committee; and being asked, who was the author and printer of the book, called, 'Second 'Thoughts concerning human soul,' &c. said, That doctor William Coward was the author of the said book; and that Mr. David Edwards printed the same. That Dr. Coward sent for the said Bassett, and told him, he had 500 of the said books, and would have him to sell them: Whereupon they came to an agreement; and the said Bassett, by a writing under his hand, did promise, and oblige himself, to account for and pay unto Dr. William Coward 3*s.* 6*d.* for every one of the said books sold.—That he sold about 300 of the said books, and had three pence a book for selling the same.

Mr. Chauntry being asked, who was the author, and printer, of the book called, 'The 'Grand Essay,' said, that Dr. Coward was the author, and William Pierson was the printer. That he sold about five hundred of the said books, by Dr. Coward's directions; and that the said Doctor agreed to allow him half the profit, for selling the same.

Mr. Edwards said, that he printed part of the book, called, 'Second Thoughts;' and that Dr. Coward delivered to him the copy.

Mr. Pierson said, that he printed the book called, 'The Grand Essay;' and that Dr. Coward delivered him the copy, and he printed 500 of them.

Dr. Coward, being called in, said, that he hath not read the book, called, 'Second 'Thoughts,' &c. since Edwards printed the same; so that he knows not, whether it be printed according to his copy: He never intended any thing against religion; and that there is nothing contained in those books, contrary either to morality, or religion. That he does not deny himself to be the author of those books; and, if there be any thing therein, against religion, or morality, he is heartily sorry, and is ready to recant the same.

Resolved, "That the said Books do contain therein divers doctrines and positions, contrary to the doctrine of the church of England, and tending to the subversion of the Christian religion.

Ordered; That the said books be burnt by the common hangman to-morrow morning, in

* These words are supplied from the original Report.

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New Palace Yard, Westminster; and that the sheriffs of London and Middlesex do assist the serjeant at arms attending this house, in seeing the same done.

A Bill for raising Recruits passed.] March 21. A Bill entitled, 'An Act for raising Recruits* for the Land-forces and Marines, and 'for dispencing with part of the encouragement 'and encrease of shipping and navigation, during the present war;' was passed by the House of Lords.

The Queen's Speech at the close of the Session.] April 3. Her majesty came to the House of Peers, and after passing several acts made the following Speech to both Houses:

"My Lords and Gentlemen; I cannot put an end to this session, without returning you thanks for the willingness which you have all expressed to support and assist me, in continuing the present war.—And I must thank you, gentlemen of the House of Commons, very particularly, for the great forwardness and zeal which you have shewn, both in the early dispatch of the supplies, and in making them so effectual for carrying on the public expence, without any additional burthens upon the country: it shall be my care, to improve this to the best advantage.—My Lords and gentlemen; at the opening of this session, I did earnestly express my desires of seeing you in perfect unity among yourselves, as the most effectual means imaginable to disappoint the ambition of our enemies, and reduce them to an honourable and lasting peace: and though this has not met with all that success which I wished and expected, yet, being fully convinced that nothing is so necessary to our common welfare, I am not discouraged from persisting in the same earnest desires, that you would go down into your several countries so disposed to moderation and unity, as becomes all those who are joined together in the same religion and interest.—This I am persuaded, will soon make you sensible that nothing, next to the blessing of God, can so much contribute to our success abroad, and to our safety at home."

Then the Lord Keeper, by her majesty's command, prorogued the parliament to Tuesday the 4th day of July next.*

* "One of the most considerable Acts passed this session, was, for 'raising recruits for the 'land-forces and marines,' which impowered the justices of peace, or any three of them, to take up such idle persons, as had no calling nor means of subsistence, and to deliver them to the officers of the army, upon paying them the levy-money, that was allowed for making recruits. The method of raising these hitherto, by drinking, and other bad practices, as they were justly odious, so they were now so well known, that they were no more of any effect; so that the army could not be recruited but by the help of this act; which, if well managed, might prove of great advantage to the nation; since by this means they would be delivered from many vicious and idle persons, who were a burthen to their country, and indeed of late years there was such an increase of the poor, that their maintenance was become in most places a very heavy load, and amounted to the full half of the public taxes. The party in both houses, who had been all along cold and backward in the war, opposed this act with unusual vehemence, pretending zeal for the public liberty and the freedom of the persons, to which, by the constitution, they said every Englishman had a right; which they thought could not be given away but by a legal judgment, and for some crime. They thought this put a power into the hands of justices of peace, which might be stretched and abused to serve bad purposes. Thus men who seemed engaged to an interest that was destructive to all liberty, could yet make use of that specious pretence, to serve their purpose. The chief objection made to this act in the house of lords was, that the justices of peace had been put in and out in so strange a manner, ever since sir Nathan Wright had the great seal, that they did not deserve that so large a power should be committed to them. Many gentlemen of good estates and ancient families had been of late put out of the commission for no other visible reason, but because they had entered heartily into the revolution, and had continued zealous for king William. This seemed done on design to mark them, and to lessen the interest they had in the elections of members of parliament; and at the same time, men of no worth, nor estate, and known to be ill-affected to the queen's title and to the Protestant succession, were put in, to the great encouragement of ill-designing men. All was managed by secret accusations, and characters, that were partially given. The lord keeper was a zealot to the party, and was become very exceptionable in all respects. Money, as was said, did every thing with him; only in his court he was never charged with any thing but great slowness, by which the Chancery was become one of the heaviest grievances of the nation." Tindal.

* "Thus ended this session of parliament, after much heat and contention between the two houses; and though the queen in her speech recommended to them union and moderation, yet those words, which had hitherto carried so good a sound, that all sides pretended to them, were now become so odious to violent men, that even in sermons, especially at Oxford, they were arraigned as importing somewhat that was unkind to the church, and that favoured dissenters. The House of Commons had, during this session, lost much of their reputation, not only with fair and impartial judges, but even with those who were most inclined to favour them. It is true, the body of the freeholders began to be uneasy under the taxes, and to cry out for a peace; and most of the considerable gentry of England, who had most to lose, seemed not to apprehend the dan-

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PRINCIPAL OCCURRENCES DURING THE RECESS—*Change in the Ministry—The Scottish Plot—The Duke of Marlborough marches into Germany—The Battle of Schellenberg—Battle of Hochstet—Surrender of Landau and Traerbach—The Duke of Marlborough arrives in England—Gibraltar taken—Engagement off Malaga.*] "The earl of Nottingham," says Tindal, "was animated by the party to press the queen to dismiss the dukes of Somerset and Devonshire from the cabinet council, or at least, that they might be called thither no more. He moved it often, but, finding no inclination in the queen to comply with his motion, he carried the seals to her, and told her, that he could not serve any longer in councils, to which those lords were admitted. The queen desired him to consider better of it, but he returned next day fixed in his first resolution, to which he adhered the more steadily, because the queen had sent to the earl of Jersey for the lord chamberlain's staff, and to sir Edward Seymour for the comptroller's. The earl of Jersey was a weak man, but crafty and well practised in the arts of a court. His lady was a papist, and it was believed, that, while he was ambassador in France, he was secretly reconciled to the court of St. Germain's, for after that he seemed to be in their interests. He was considered as the person, who was now in the closest correspondence with the court of France; and, though he was in himself a very inconsiderable man, yet he was applied to by all those, who wished well to the court of St. Germain's. His staff of lord chamberlain was given to the earl of Kent, who was the first earl of England, and had a great estate. Mr. Mansel, the heir of a very considerable family in Wales, was made comptroller of the household; and, after a month's delay, Mr. Harley, the Speaker, was declared secretary of state, and Mr. Henry St. John was appointed secretary at war in the room of Blaithwaite.*

"During these transactions, the Scottish Plot made a great noise, and accounts of it soon reaching France, Frazer was immediately shut up in the Bastile. On the other hand, Lindsay, who would discover nothing before the committee of Lords, was tried upon the act made against corresponding with France, and sentenced to die. Being carried to Tyburn, he was told by the sheriff, that he must expect no mercy, unless he acknowledged his crime, and discovered what he knew of the conspiracy. But, as it is believed, upon a secret intimation, that he was to be reprieved, he still continued obstinate and mute, and was carried back to Newgate, where he continued prisoner for some years, and then, being banished the kingdom, he died in Holland in a very miserable condition. The truth is, whether, as some were of opinion, the ministry found the queen inclined to favour the friends of the

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gers the nation was in, if it should fall under the power of France, and into the hands of the Pretender; or else they were so fatally blinded, as not to see, that these must be the consequences of those measures, into which they were engaged." Tindal.

* "The late differences between the Lords and Commons had raised so great a ferment in the nation, that the parliament had not long been prorogued, before a paper was printed and dispersed, intitled, 'Legion's humble Address to the Lords,' wherein the proceedings of the Commons, with relation to the Aylesbury business, and the examination of the Scots Plot, were reflected on with great freedom. The first were taxed 'as arbitrary and 'illegal, contrary to the liberties of Englishmen, destructive of the rights of election, and 'an invasion of the nation's judicature.' And, as to the other it was suggested, "That the complimenting her majesty with the title of 'a 'queen sitting on the throne of her ancestors 'by right of succession from her father,' when, at the same time, they knew her right depended upon the validity of parliament-limitation, and was built on the foot of the late Revolution, and the Act of Settlement, was a barbarous treachery to the whole nation, an insolent affront to her majesty, an insinuation of the title of the pretended prince of Wales, and a villainous attempt to destroy the present settlement of the succession, and was consequently high treason by their own act of parliament: And that to address her majesty to extend her prerogative, and thereby to embroil her with the privilege of the Peers, was the most aggravated piece of treachery, that ever House of Commons was or could be guilty of; the same being an affront to her majesty, a malicious design on her person, by persuading her to enter on that very thing, the exorbitant practice whereof was the ruin of her father and grandfather; an unprecedented attempt upon the liberties of the people, and a meddling with what they have no power or right to touch. Their lordships were likewise applauded for their zeal, courage, and fidelity, in vindicating their own undoubted rights invaded by the House of Commons, in their diligent care for the safety of her majesty's person, in searching after the deeply-laid contrivances of her enemies in the late plot, and in their asserting the liberties and rights of the people of England against the invasion and usurpation of the House of Commons. And, as the Lords were looked upon as the sanctuary and safety of this nation, so, in the name of the injured freeholders and Commons of England, their lordships were assured, that they would firmly adhere to, and faithfully defend their lordships in the further pursuit of these just and glorious ends." Though there was a great deal of truth in this paper, yet, being represented by the Gloucestershire justices, at the instigation of Mr. Howe, to the queen, as of dangerous consequence, a proclamation was published, promising a reward of 100*l.* for the discovery of the author, and 50*l.* for apprehending the printer, which had no effect." Tindal.

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court of St. Germains; or whether they themselves were unwilling to irritate the Scots at this critical juncture; it is most certain, that, even after the removal of the earl of Nottingham, the farther discovery of the Plot was prosecuted with great tenderness or negligence.

"On the 21st of April, the duke of Marlborough embarked for Holland, and in three days arrived at the Hague. Two days after his coming, he was attended by a solemn deputation of the States, in order to confer with him. The conference lasted six hours. The chief subject of debate was about sending a good army towards the Moselle. This was all that was proposed in public, and to this the States of Zealand, and two other provinces, strongly objected. They would not agree, that the duke should have an unlimited command to lead the army where he pleased, and thought it a very dangerous project to march the troops at so great a distance. The Zealand deputies opposed it so strenuously, that the duke was obliged to tell them plainly, that he had the queen's positive orders to march with the troops in her pay towards the Moselle. Accordingly, having taken his leave of the States, the duke set out from Holland, and in five days arrived at Maestricht, where his army was encamped. From Maestricht the duke of Marlborough marched to Bedburg.

"The French in Flanders began by this time to be alarmed, though they were far from suspecting the duke's real design. His marching towards Coblentz, and the great preparations which were making in that place, made them believe, that he designed to open the campaign with the siege of Traerbach, and endeavour to advance along the Moselle into France. Upon this supposition they detached 5,000 foot, and 2,000 horse towards that river, and gave out, that they intended the siege of Huy, vainly imagining, that by this report they might stop the progress of the English general. But the duke, well knowing that the forces which were left in Flanders under Auverquerque, were sufficient to frustrate any attempt which the French could make on that side, continued his march, and advanced from Bedburg to Kerpenord, the next day to Kalseeken, where he received an express from prince Lewis of Baden, with some intercepted letters, by which it appeared, that the French intended to force their passage through the Black-forest, and, after joining the Bavarians, to march directly to Vienna. About the same time, the duke received advice from the Netherlands, that the court of France had sent positive orders to Villeroy to march towards the Moselle with 35 battalions, and 40 squadrons, being still firmly persuaded, that the duke would act on that side. Upon this, the duke gave immediate orders for his forces to march with all expedition; and whilst the army was on a full march, he went to take a view of the fortifications of Bonne, where, having given his directions to the governor of that place, he returned in the evening to the army. Here he received certain advice, that the recruits for the French army in Bavaria, with farther reinforcements, had joined the elector three days before at Villingen. But the duke, notwithstanding this junction of the enemies, was, on account of the number of the troops which the French left behind them, and by the marshal's marching back with the rest of his army towards the Rhine, confirmed in his opinion, that the enemies were as yet wholly ignorant of his design. He therefore continued his march with unwearied diligence, and advanced to the camp of Neudorff near Coblentz, where, besides Mr. Davenant, the queen's agent at Francfort, and M. d'Amelo, envoy extraordinary from the States-general, count Wratislaw, in his return from London, waited on him to settle all things for his farther march, and his conjunction with the imperial army. Then the duke passed the Neckar near Ladenburg, where he rested three days. Having, by this time, gained the advance of some days of the French army, he wrote to the States from Ladenburg, to let them know that he had the queen's order to march to the relief of the empire, with which he hoped they would agree, and allow his carrying their troops to share in the honour of that expedition. He had their answer as quick as the courier could bring it, by which they approved of the design, and of his carrying their troops with him. So he had now the whole army at his own disposal.

"The French imagining that he would advance to the Upper-Rhine, Villeroy marched thither with all possible speed; and, at the same time, a detachment of 7 battalions and 21 squadrons, from the confederate army in Flanders, under the duke of Wirtemberg, followed the duke of Marlborough, who marched from Ladenburg to Mildenheim, where, the next day, prince Eugene paid him a visit. The consultations between the prince and the duke lasted several hours; and it was agreed upon, that the two armies should join, and the duke and prince Lewis of Baden should command each day alternately, and that prince Eugene should go upon the Rhine to command a separate army. The troops being drawn up in order of battle, the duke accompanied prince Eugene to a review, when the prince seemed wonderfully pleased to find them in such excellent order after so long a march. The next day, prince Lewis of Baden arrived in the camp at Great-Heppach, where a conference was held in the evening. The day following the troops marched from Great-Heppach, and prince Lewis went to his army on the Danube, and prince Eugene rid post for Philipsburgh to command the army on the Rhine, and on the 22d joined prince Lewis of Baden at Wasterstet. On the 24th the army marched from thence to Elchingen, the next day to Gingen. On the 30th the army marched from thence to Landthaussen on the right, and Balmertshoffen on the left, and passed so near the enemy's camp, that lieutenant-general Bulau was

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sent out the night before with a detachment of 2,000 horse and dragoons, to secure the avenues, by which they might have disturbed the march of the allies, who, by this means, proceeded without any opposition. On the 1st of July they continued their march in sight of the enemy's intrenchments at Dillingen, and incamped the right at Amerdighen, and the left at Onderingen.

"While they lay in this camp, the duke received advice, that the elector of Bavaria had sent the best of his infantry to reinforce count d'Arco, who was posted at Schellenberg, a rising ground on the Danube, near Donawert, where, for several days, he had caused some thousands of men to work upon intrenchments, as being a post of vast importance. The duke resolved to march and attack the enemy; and the necessary directions being given to the army, on the 2d of July, early in the morning, he advanced with a detachment of 30 squadrons of English and Dutch, a considerable number of foot commanded by lieut.-general Goor, 3 battalions of imperial grenadiers under prince Lewis of Baden, and the rest of the army followed with all possible diligence. But the march being long, and the ways very bad, they could not reach the river Wermitz, which run by Donawert, till about noon, and it was three hours before the bridges were finished, for the troops and cannon to pass over. About 5 o'clock in the afternoon, they came before Schellenberg, and the duke of Marlborough moved up with the horse as near the enemy's intrenchments as was necessary to take a view of them. In the mean time, the artillery began to fire upon the enemy, who answered briskly from their batteries for about an hour, when the English and Dutch foot, supported by the horse and dragoons, began the attack with prodigious resolution, before the Imperialists could arrive; but, having the greatest part of the enemy's forces to contend with, they were at first obliged to give ground. Soon after the Imperialists came up very seasonably, and being led on in good order by prince Lewis of Baden, advanced to the enemy's works without once firing, threw their fascines into the ditch, and passed over with inconsiderable loss. The enemy's horse charged them vigorously, but were repulsed; and then, the Imperial cavalry entering their intrenchments, and the English and Dutch breaking in about the same time, the confederates made a dreadful slaughter of the enemy. The horse and dragoons shared the glory of the day with the infantry, and all the confederate troops behaved themselves with incredible bravery and resolution. But, as the attack was begun by a battalion of the English foot-guards, and the regiments of Orkney and Ingoldsby, they suffered very much. The enemy's forces consisted of 32,000 men, all choice troops, commanded in chief by count d'Arco, and under him by two Bavarian and two French lieut.-generals. As soon as the confederates had possessed the intrenchments, the enemy ran away in great confusion to Donawert and the Danube; but, being closely pursued by the horse and dragoons, a great many followed the example of their generals, who saved themselves by swimming over that river. The loss of the enemy was computed to be about 6,000 men. The confederates made themselves masters of 16 pieces of cannon, 13 colours, with all their tents and baggage. The duke of Marlborough gained great honour in this action, giving directions with extraordinary presence of mind, and exposing his person to the greatest danger. The next day, the Bavarian garrison quitted Donawert upon the approach of the confederates, and broke down the bridges, but had not time to destroy their ammunition and provisions, as they had intended.

"The elector of Bavaria was no sooner informed of the defeat of his troops at Schellenberg, than he quitted his strong camp between Dillingen and Lavingen, and came to the other side of the Danube, over-against Donawert, in his march to the river Leche, to prevent the confederates cutting off his retreat to his country.

"On the 5th of July, the duke of Marlborough passed the Danube near Donawert; and, on the 17th, count de Frise, with a detachment of 4,000 men and 12 pieces of cannon, marched over the river Leche, and took post in the country of Bavaria. The whole army marched at the same time, and incamped with the right at Hamber, and the left at Ginderkingen. Upon the first notice of the allies having begun to pass the Leche, the garrison of Newburg marched out and retired to Ingoldstadt. Whereupon a detachment of dragoons was immediately sent out by the duke of Marlborough to take possesion of that place; and prince Lewis of Baden ordered general Herberville, who commanded a separate body of between 3 and 4,000 men on the other side of the Danube, to remain there for the security of that important place, and for the drawing of provisions out of Franconia for the subsistance of the confederate troops, while they continued in Bavaria. On the 10th, the whole army passed the Leche; and, on the 13th, count Vecklen, general of the Palatine horse, arrived from prince Eugene of Savoy with an account, that the marshals Villeroy and Tallard had passed the Rhine above fort Kehl, in order to succour the elector of Bavaria: for which reason he desired a reinforcement of horse, to enable him the better to observe the enemy's motions. Upon which prince Maximilian of Hanover was detached with thirty squadrons of imperial horse, with orders to join prince Eugene with all possible diligence.

"The duke of Marlborough having now the elector of Bavaria at so great a disadvantage, entered upon a treaty with him, and offered him what terms he could desire, either for himself or his brother, even to the paying him the whole charge of the war, upon condition that he would immediately break with the French, and send his army into Italy to join with the

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Imperialists there. The elector's subjects who were now at mercy, pressed him vehemently to accept of these terms; and he seemed inclined to hearken to them, and messengers went often between the two armies. But this was done only to gain time, for he sent courier after courier with most pressing instances to hasten the advance of the French army. When he saw, that he could gain no more time, the matter went so far, that articles were ordered to be made ready for signing, which, in conclusion, he refused to do. This refusal was highly resented by the duke of Marlborough and prince Lewis of Baden, who immediately sent out the count de la Tour, general of the imperial horse, and the count of east Friseland, lieut. general in the Dutch service, with 30 squadrons of horse and dragoons, to plunder and burn the country of Bavaria as far as Munich, the capital city, hoping, that either a generous compassion for his subjects, or the want of subsistance, would conquer the elector's obstinacy. In the mean time, the inhabitants of these parts were in the greatest consternation, and sent deputies to the duke of Marlborough, offering to pay large contributions to prevent military execution. But the duke replied, "That the forces of the queen of Great-Britain were not come into Bavaria to get money, but to bring their prince to reason." The two generals therefore put their commission in execution with the utmost severity, while the elector of Bavaria and the marshal de Marsin, having evacuated Ratisbon, were obliged to confine themselves within their strong camp and intrenchments at Augsburg, in expectation of another army from France under marshal Tallard, which, notwithstanding all the vigilance and precaution of prince Eugene, arrived before the end of July at Biberach near Ulm, to the number of about twenty-two thousand men. Upon this, the elector marched with his army from Augsburg, and took that opportunity to join the French.

"The confederate army, under the duke of Marlborough, having intelligence of these proceedings, decamped on the 4th of August from Friburg, and marched that night to Kippach. The next morning they encamped from thence, and marched to Hokenwert, where they continued two days. During that time, the duke of Marlborough, prince Eugene, and prince Lewis of Baden, held a council of war; wherein it was agreed, that prince Lewis should besiege Ingoldstadt, whilst the other two were to observe the elector of Bavaria. On the 8th, the army under the duke of Marlborough marched from Hokenwert to St. Sanditzel; and, on the 9th from thence to Axheim; and at the same time, prince Lewis went another way, and bent his march directly to Newberg, in order to invest Ingoldstadt. The same day, the duke of Marlborough received advice, that the enemy had passed part of their army over the Danube, at Lewingen: whereupon he ordered general Churchill to march with a strong detachment over that river at Schonevelt; to reinforce prince Eugene, who lay encamped at Donawert. The 10th, they marched to Sconevelt; and the day following intelligence was brought, that the enemy's troops had all got over the Danube; so that the duke of Marlborough immediately ordered his army to march by break of day, and pass that river likewise; which was performed accordingly, and, at night, the whole army, being rejoined, incamped at Munster. On the 12th, very early in the morning, the generals of the allies went to view the enemy's army, taking with them all the picquet guard, which consisted of twenty-eight squadrons. The duke of Marlborough and prince Eugene went up to the top of a tower called Thittingen, that they might the better observe the posture of the enemy; and they took notice, that their advanced squadrons, which were in motion towards the allies, stopped short, after they had perceived them. They were possessed of a very advantageous post, on a hill near Hochstet, their right flank being covered by the Danube, and the village of Blenheim, and the left by the village of Lutzengen; and they had a rivulet before them, whose banks were very high, and the bottom marshy. However, after some consultation, it was thought proper to fall upon the enemy, before they had time to fortify themselves in that post. The duke of Marlborough and prince Eugene saw the danger of being forced to lie idle in their own camp, till their forage should be consumed, and their provisions spent. They had also intercepted letters from marshal Villeroy to the elector of Bavaria, by which it appeared, that he had orders to march into Wirtemberg, to destroy that country, and to cut off the communication with the Rhine, which must have been fatal to the allies. The necessary dispositions were therefore made for the next morning's action. Many of the general officers came and represented to the duke of Marlborough the difficulties of the design: he answered, that he saw these well, but the thing was absolutely necessary; so they were sent to give orders every where, which were received all over the army with an alacrity that gave a happy presage of the success which followed.

"On the 13th of August, a day which decided the elector's fate by the loss of all his country, early in the morning, the whole confederate army marched from Munster, leaving their tents standing; and the duke of Marlborough and prince Eugene, having posted themselves on a rising ground, summoned all the general officers, to give them the necessary directions, in other to attack the enemy; upon which, the army advanced to the plain, and were drawn up in order of battle. About nine o'clock, the enemy fired some cannon upon our troops, as they were marching to form the line, who were answered from our batteries with good success; and both armies continued cannonading each other till near one; during which time, the duke of Marlborough ordered a little rivulet and morass in the front of the enemy to be sounded;

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and, where it was found impassible, orders were given to the horse of the second line of the allies to provide themselves, each squadron with twenty fascines, to facilitate the passage. These preparations being made, the duke of Marlborough gave orders for a general attack, which was begun about one o'clock. Prince Eugene and the imperial general officers were on the right; general Churchill, the lord Cutts, lieut. gen. Lumley, the lord Orkney, and lieut. gen. Ingoldsby, with the rest of the English and Dutch generals, were on the left; and the duke of Marlborough in the centre commanded the whole. Major-general Wilks made the first onset, with five English battalions of How, Ingoldsby, Marlborough, Rowe, and North and Grey, and four battalions of Hessians, supported by the lord Cutts, and major-general St. Paul, with eleven other battalions, and fifteen squadrons of horse, under the command of major-general Wood. The five English battalions, led on by brigadier Rowe, who charged on foot at the head of his own regiment with unparalleled intrepidity, assaulted the village of Blenhein, advancing to the very muzzles of the enemy's muskets, and some of the officers exchanging thrusts of swords with the French through the palisadoes. But being exposed to a fire much superior to their own, they were soon obliged to retire, leaving behind them one third part of their men either killed or mortally wounded, the brigadier who commanded them, being among the last. In this retreat, they were pursued by thirteen squadrons of the French gendarmerie and carabineers, who would have intirely cut them to pieces, had not the Hessian infantry stopped their career, by the great fire they made upon them. The French being repulsed, and forced to fly in their turn, were chaced by five squadrons of English horse, who by this time had passed the rivulet; but whilst the enemy rallied themselves, some fresh brigades, superior in number, came to their assistance, charged the assailants with great vigour, and obliged many of them to repass the rivulet with great precipitation. Here again the Hessian foot performed signal service, putting the French to the rout by their continual fire, and regaining the colours, which they had taken from Rowe's regiment.

"While Rowe's brigade rallied themselves, that of Ferguson, commanded by himself, attacked the village of Blenheim, on the left, but with no better success; and, though both returned three or four times to the charge with equal vigour, yet they were both still repulsed with like disadvantage, so that it was found impossible to force the enemy in that post, without intirely sacrificing the confederate infantry.

"The English foot having thus begun the engagement on the left, the horse of the same wing passed the rivulet, with great bravery, over against the centre or main battalia of the enemy; as did likewise that of the right wing, having made several passages with divers pieces of wood. After which they drew up in order of battle, the French and Bavarians giving them all the time that could be desired for that purpose, keeping themselves very quiet on the hills, which they were possessed of, without descending into the meadows towards the rivulet, so that even the second line of the horse had time to form themselves: and to this capital fault of the French, the confederates were thought to have owed principally their victory. This neglect is said to have proceeded from an ill-timed haughtiness and presumption of marshal de Tallard, who being informed that the allies were laying bridges on the rivulet, used this expression, "if they have not bridges enough, I will lend them some;" and when they told him that our troops were actually coming over the rivulet, he is reported to have said, "Let them pass: the more comes over, the more we shall have to kill and make prisoners." But, on the other hand, it is alledged by some that he had given positive orders not to let the enemy pass the rivulet, but to charge them as they passed; which orders were not executed.

"At length the duke's cavalry moving towards the hill, that of marshal de Tallard came down, and charged them with a great deal of fury; the French infantry, posted at Blenheim, making at the same time a terrible fire from behind some hedges on their flank, which were advanced too near that village, so that the first line was put into such disorder, that part of them retired beyond the rivulet. Upon this, the duke gave orders to lieutenant general Bulaw, commander in chief of the troops of Lunenburgh, to bring up his own regiment of dragoons, and two of the troops of Zell, which charged the enemy's horse with so much vigour, that they broke them, and drove them beyond the second rivulet, called Meul Weyer, and from thence to the very hedges of the village of Blenheim. This gave time to those, who had given ground, to repass the rivulet, and to form a second line behind those regiments of dragoons, and some others, that had joined them, so that those dragoons remained in the first line during the rest of the action.

"The cavalry of the confederates left wing, having by this success gained the advantage of forming themselves entirely in order of battle, advanced leisurely to the top of the hill, and several times charged the enemy's horse, who were always routed, but who, nevertheless, rallied every time, though at a considerable distance, and thereby gave the allies an opportunity of gaining ground. As the duke of Marlborough, who was now in person among them, was preparing a fresh attack, marshal de Tallard caused ten of his battalions to advance, to fill up the intervals of his cavalry, in order to make a last effort; which the duke perceiving, caused three battalions of the troops of Zell to come up and sustain the horse. Then the prince of Hesse Cassel, general of the horse, and the lieutenant generals Lumley, Bulaw, Hompesch, and Ingoldsby, returned with their troops to the charge; but the superior fire of

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the enemy's infantry put their first line into some disorder, so that it shrunk back, and remained, for some time, at about sixty paces distant from the enemy, neither party advancing against the other. At length, the confederates pushed forwards with so much bravery and success, that, having broke and routed the enemy's horse, the ten battalions, who found themselves abandoned by them, were cut to pieces, none escaping, but a very few soldiers, who threw themselves on the ground, as dead, to save their lives.

"Marshal de Tallard rallied his broken cavalry behind some tents, which were still standing in his camp; and, seeing things in this desperate condition, resolved to draw off his dragoons and infantry out of the village of Blenheim. He thereupon sent one of his aid-de-camps to marshal de Marsin, who, with the elector of Bavaria, commanded on the left, to desire him, 'to face the enemy with some troops 'on the right of the village of Oberklau, to keep 'them in play, and favour the retreat of the 'infantry, that was in Blenheim.' But marshal de Marsin represented to the messenger, 'That 'he had too much business in the front of the 'village, where he was posted, and where he 'had to deal with the duke of Marlborough, 'who was come to the assistance of prince Eu-'gene, as well as in the rest of the line, to spare 'any troops; since he was so far from being 'victorious, that all he could do was to main-'tain his ground.'

"In the mean time, Ingoldsby made the other generals of the same attack sensible, how easily they might entirely defeat the French cavalry, by charging them on the right flank. This advice being put into execution with a great deal of vigour, the enemy were soon thrown into disorder, and put to flight, part of them endeavouring to gain the bridge, which they had over the Danube, between Blenheim and Hochstet; and the other part, among whom were the Gens d'Armes, were closely pursued by the Lunenburgh dragoons, and those, who escaped the slaughter, threw themselves into the Danube, where most of them were drowned. Those, who fled towards Hochstet, rallied once more, making a shew to succour the rest; but the same regiment of Bothmar faced them, and kept them in awe for some time, till it was joined by some other regiments, when the enemy made the best of their way to save themselves by flight.

"The marshal de Tallard was surrounded by the fugitives, and taken near a mill, behind the village of Sonderen, not far from the Danube, by M. de Boinenburg, a lieutenant-colonel of the troops of Hesse, aid-de-camp to the prince of Hesse Cassel. The marquis de Montperoux, general of horse; de Seppevile, de Silly, and de la Valiere, major generals; M. de la Messiliere, St. Pouange, de Legondais, and several other officers of note, were likewise made prisoners in this defeat.

"While these things passed at the village of Blenheim, and in the centre, the duke of Marlborough caused the village of Oberklau, which was marshal de Marsin's quarters, to be attacked by the brigade of Berensdorff, consisting of ten battalions. The prince of Holstein-Beck, who commanded them as major-general, passed the rivulet, at the head of two battalions, with undaunted resolution. But as the Imperial cavalry, which was to have supported him, were wanting in their duty, and kept musket-shot from him, he was scarce got over, when seven or eight of the enemy's battalions fell upon him with great fury, before he could form his two battalions; so that one of them, that of Goor, was almost entirely cut to pieces, and the prince himself desperately wounded and taken prisoner. But, notwithstanding this first shock, these battalions were no sooner supported by some Danish and Hanoverian cavalry, than they charged a second time, but with no better success; till, upon the third charge, the duke of Marlborough having himself brought up some squadrons, which were supported by others of the body of reserve, made them advance with some battalions beyond the rivulet; upon which the enemy began to retire.

"As soon as the duke had performed this considerable service, he repaired to the centre, where, finding the action decided in favour of the confederates, he caused part of his victorious cavalry to halt, to observe the motions of that part of the enemy, which, by this time, was drawn up beyond the morass of Hochstet. During this halt, the elector of Bavaria, whom prince Eugene could make no impression upon for some time, but whose bravery at last put that elector's troops to the rout, was perceived making his retreat from the village of Lutzingen. Upon which, orders were dispatched to the baron de Hompesch (who with several squadrons was pursuing the fugitives towards Morselingen, and who had already overtaken and forced two of their battalions to lay down their arms) to face about, and march to join those who halted, as well to prevent the elector's falling upon Hompesch's rear, as to form a body, in order to charge that prince, who marched in great haste, but in pretty good order, with his squadrons on the left, and his battalions on the right. But, before general Hompesch returned from his chace, the right wing of the confederate army was perceived at some distance behind the elector; and, appearing to be part of his army marching in such a manner, as might easily have flanked them, had the duke immediately charged him, the duke, with great prudence, sent out a party to view them. During this time, the elector continued marching off with great precipitation, till he reached the morass of Morselingen.

"The French horse being intirely defeated, and the confederates masters of all the ground, which was between the enemy's left and the village of Blenheim, the 28 battalions and 12 squadrons of dragoons, which were in the village, found themselves cut off from the rest of their army, and, despairing of being able to make their escape, after a weak attempt to re-

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pulse the infantry, who surrounded them, capitulated about 8 in the evening, laid down their arms, delivered their colours and standards, and surrendered themselves prisoners of war, on condition that the officers should not be searched.

"This defeat cost the enemy, by their own accounts, 40,000 men, in which number they included 4 or 5,000 lost in their precipitate retreat to the Black Forest, either by desertion, or the pursuit of the Hussars or peasants, who made a great slaughter of the stragglers. The confederates gained above 100 pieces of cannon, 24 mortars, 129 colours, 171 standards, 17 pair of kettle-drums, 3,600 tents, 34 coaches, 300 laden mules, 2 bridges of boats, 15 pontons, 24 barrels, and 8 casks of silver. But this success cost them 4,485 men killed, 7,552 wounded, and 273 left or made prisoners.

"The emperor made great acknowledgements to the duke of Marlborough for this signal service, and offered to make him a prince of the empire, which the duke said he could not decently accept of, till he knew the queen's pleasure; and, upon her consenting to it, he was created a prince of the empire, and about a year after, Mindlehcim was assigned him for his principality.

"The success of the battle having entirely changed the face of affairs in the empire, and saved the house of Austria from ruin, the duke of Marlborough, being willing to lose no time, and judging it more advantageous for the common cause to join all the confederate forces together, to straiten the enemy as much as possible, and oblige them to abandon Germany, and repass the Rhine, sent an express to prince Lewis of Baden, to leave the siege of Ingoldstadt, and rejoin the army with the forces under his command; considering, that not only that city, but the whole country of Bavaria, must fall of course into the emperor's hands. The duke's and prince Eugene's opinion was confirmed by the example of the city of Augsburg, which the French abandoned, carrying with them four hostages, as a security for 2,000 sick and wounded men, whom they left in that place. The magistrates being assembled immediately after, sent four deputies to the duke of Marlborough to desire his protection; who answered them, that they had nothing to fear from the troops of her Britannic majesty and the States-general, which were only sent against the enemies of the empire and their allies. And thereupon he ordered a detachment to march, and take possession of that important place. Soon after marshal de Tallard, with the prisoners of distinction, were sent towards Hanau and Francfort under a guard of dragoons, and the other prisoners were sent into the adjacent places.

"On the 21st of August the duke encamped at Sefellingen, within half a league of Ulm; and the next day the governor of Ulm, who apprehended a siege, sent out of the town 430 prisoners, which the enemy had taken at Hochstet, Dillengen, and other places, with a compliment to the duke, that he would be pleased to take an opportunity to return an equal number; and, those persons being Germans, the duke sent them to prince Eugene. On the 25th, the duke, prince Eugene, and prince Lewis of Baden had a long conference, wherein they concerted the further operations of the campaign; and it was resolved, that, seeing the enemy were returning towards the Rhine, all the confederate forces should likewise march that way, except 23 battalions and some squadrons, which should be left under the command of general Thungen to carry on the siege of Ulm. In pursuance whereof, the confederate troops began their march from the neighbourhood of Ulm, on the 26th of August, by different roads, to the general rendezvous of the army, which was appointed to be at Bruschal near Philipsburgh. From that day the confederate army was in motion till the 9th of Sept., when a party of Imperial horse, having met some squadrons of the enemy, commanded by the duke de Monfort, a major-general, who had been conducting 4 battalions and a sum of money into Landau, fell upon them with great vigour, and routed them, killing above 100 upon the spot, taking several prisoners, and mortally wounding their commander. On the 12th, prince Lewis of Baden marched towards Landau, with the troops appointed to besiege that place; and the duke of Marlborough, with prince Eugene, came to the camp of Croon Weissenburgh, in order to cover the siege. The same night, the duke received an express from general Thungen, importing, that, having formed the siege of Ulm, and received his great artillery, the garrison beat a parley the 10th, and the next day surrendered that place upon honourable terms; which he was willing to grant, that no time might be lost for the further execution of the projects of this campaign. The Imperialists found in Ulm 222 pieces of brass cannon, 25 brass mortars, 1,200 barrels of powder, with a considerable quantity of provisions, which was seasonably applied to the carrying on the siege of Landau, which prince Lewis of Baden insisted on, as necessary to secure the Circles, Suabia in particular, from the excursions of that garrison. This was popular in Germany, and, though the duke did not approve it, he did not oppose it with all the authority, that his great success gave him. This was universally blamed, for, while France was in the consternation, which their late great loss brought them under, a more vigorous proceeding was like to have greater effects; and, besides that the Imperial army was ill-provided, the great charge of a siege was above their strength. Prince Lewis suffered much in his reputation for this undertaking: It was that which the French wished for, and therefore it was suspected, that some secret practice had prevailed on that prince to propose it. It is certain, that he was jealous of the glory which the duke of Marlborough had obtained, and in which himself had no share; and it was believed, that if he had not gone to besiege Ingold-

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stadt, the battle of Hochstet had never been fought. He was indeed so fierce a bigot in his religion, that he could not bear the successes of those whom he called heretics, and the exultation which he thought heresy might have upon it. While the duke of Marlborough lay covering the siege, marshal de Villeroy, with his army, came and looked on him; but as the soldiers of the confederates were exalted with their success, so the French were too much dispirited with their losses to make any attack, or to put any thing to hazard, in order to raise the siege. They retired back, and went into quarters, and trusted to the bad state of the Imperial army, who were ill-provided and ill-supplied. The garrison made as vigorous a defence, and drew out the siege to as great a length, as could be expected. Prince Lewis had neither engineers, nor ammunition, and wanted money to provide them; so that, if the duke had not supplied him, he must have been forced to give it over. The king of the Romans came again, to have the honour of taking the place: But his behaviour there did not serve to raise his character; for he was not often in the places of danger, and was content to look on at a great and safe distance. He was likewise constantly beset with priests, and such a face of superstition and bigotry appeared about him, that it very much damped the hopes that were given of him. However, on the 23rd of November, the besiegers having lodged themselves on the counterscarps both on the right and left, and sufficient breaches being opened, the next morning the necessary dispositions were made for a general assault, and 5,000 men were commanded upon that service. The besieged, being therefore reduced to this extremity, were obliged to beat a parley between 10 and 11 o'clock, whereupon hostages were exchanged, and the capitulation signed the same day.

"The confederates, omitting nothing that might advance the glory, which they had already acquired in Bavaria, resolved to prosecute the siege of Traerbach. To which end, the duke of Marlborough marched towards the Moselle with a considerable army, which he left under the command of the hereditary prince of Hesse-Cassel, as also the direction of the attacks of that place. The castle was invested in the beginning of November, and the approaches were carried with such success, that, on the 21st, the besiegers attempted to storm it. But as they were climbing up the eminences (the rock, on which that fortress is built, proving very steep, and the weather exceedingly stormy) the garrison made so vigorous a defence, that the assailants were obliged to retire with considerable loss. Notwithstanding these discouragements, the prince of Hesse was resolved to carry on the siege with the utmost vigour; and, on the 20th of December, obliged the garrison to surrender on honourable conditions. The confederates met with a great deal of difficulty and opposition in all the attacks; and the baron de Trogne, the States' chief engineer, was shot by the prince of Hesse's side, as he was giving the necessary directions; and they had above a thousand men killed or wounded.

"During the siege of Traerbach, the duke of Marlborough went to the court of Prussia, to negotiate that 8,000 Prussians might be sent to Italy the next campaign, to serve there for the relief of the duke of Savoy, under the command of prince Eugene. He was received at Berlin, and all other places, through which he passed, with the highest respect; and thence he proceeded to the court of Hanover, where he arrived on the 1st of December, and thence continued his journey to the Hague, where he was congratulated by the deputies of the States-general, upon his victories at Schellenberg and Hochstet; and was as much considered and submitted to in Holland, as if he had been their stadtholder. The credit, which he was in among them, was very happy for them, and was, indeed, necessary at that time for keeping down their factions and animosities, which were rising in every province, and in most of their towns. Only Amsterdam, as it was the most sensible of the common danger, so it was not only quiet within itself, but it contributed not a little to keep all the rest so, which was chiefly maintained by the duke of Marlborough's prudent management; who, having settled all matters relating to the ensuing campaign, embarked for England, and arrived at London the 11th of December.

"At sea, this summer, affairs were carried on much more doubtfully than at land. Sir George Rooke sailed into the Streights, where he reckoned he was strong enough for the Toulon squadron, which was then abroad in the Mediterranean. Soon after that a strong squadron from Brest passed by Lisbon into the Streights. Mr. Methuen, the English ambassador in Portugal, apprehending, that, if these two squadrons should join to attack sir George Rooke, it would not be possible for him to fight against so great a force, sent a man of war, which that admiral had left at Lisbon, with some particular orders, which made the captain very unwilling to carry the message; but the ambassador promised to indemnify him. The captain sailed through the French fleet, and brought this important advertisement to sir George Rooke, who told him, that on this occasion he would pass by his not observing his orders, but that, for the future, he would find the safest course was to obey orders. Upon this sir George stood out of the way of the French towards the mouth of the Streights, and there met sir Cloudesly Shovel with a squadron of our best ships, with which being reinforced, he sailed up the Streights again, being now in a condition to engage the French. He came before Barcelona, where the prince of Hesse-Darmstadt assured him, there was a strong party ready to declare for king Charles, as it was certain there was a disposition in many to do it. But sir George would not stay above three days before that city; so that the motions

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within the town, and the discoveries which many made of their inclinations, had almost proved fatal to them. He answered, when pressed to stay a few days more, that his orders were positive; and that he must sail towards Nice, which it was believed the French intended to besiege. But, as he was sailing that way, he received advice, that the French had made no advances in that design; and therefore he turned his course westward, and came in sight of the French fleet, sailing from Brest to Toulon. The advantage which he had, was so visible, that it was expected, he would have made towards the enemy, but he did not. What orders he had was not known, for the matter never came under examination. The French got to Toulon, and he steered another way. The whole French fleet was then together in that harbour, for though the Toulon squadron had been out before, it was then in port. A very happy accident had preserved a rich fleet of merchant ships from Scanderoon under the convoy of three or four frigates, from falling into their hands. The French fleet lay in their way in the bay of Tunis: and nothing could have saved them from being taken, but that, which happened in the critical minute, in which they needed it. A thick fog covered them all the while that they were sailing by that bay, so that they had no apprehension of the danger they were in, till they had passed it.

"Sir George Rooke, as he sailed back, fell in upon Gibraltar, which, in a council of war held, July 17, about seven leagues to the eastward of Tetuan, it was resolved to attack. Four days after, the fleet got into the bay, and 1,300 marines, English and Dutch, with the prince of Hesse Darmstadt at their head, were put on shore, on the neck of land to the northward of the town, to cut off any communication with the country. The prince having thus posted his men, sent a summons to the governor to surrender the place for the service of his catholic majesty; which he refusing, the admiral, the next day, gave orders that the ships which had been appointed to cannonade the town under the command of rear-admiral Byng, and rear-admiral Vanderdusson, as also those which were to batter the South-mole-head, commanded by captain Hicks in the Yarmouth, should range themselves accordingly. But, the wind blowing contrary, they could not possibly get into their places till the day was spent. In the mean time, to amuse the enemy, captain Whitaker was sent in with some boats who burnt a French privateer of twelve guns, at the Old Mole. On the 23rd, soon after break of day, the ships being all placed, the admiral gave the signal for beginning the cannonade, which was performed with very great fury, about fifteen thousand shot being made in five or six hours time against the town, so that the enemy were soon driven from their guns, especially at the South-mole-head. Whereupon, the admiral considering, that by gaining that fortification they should of consequence reduce the town, ordered captain Whitaker, with all the boats armed, to endeavour to possess himself of it; which was performed with great expedition. But captain Hickes and captain Jumper, who lay next the Mole, had pushed on shore with their pinnaces and some other boats, before the rest could come up. Whereupon the enemy sprung a mine, which blew up the fortification about the Mole, killed two lieutenants, and about forty men, and wounded about sixty. However, our men kept possession of the great platform, of which they had made themselves masters; and, captain Whitaker landing with the rest of the seamen, who had been ordered upon this service, they advanced, and took a redoubt or small bastion, half way between the mole and the town, and possessed themselves of many of the enemy's cannon; upon which the governor desired to capitulate, and surrendered upon honourable terms.

"Sir George Rooke, after he had supplied Gibraltar, sailed again into the Mediterranean, and, in conjunction with the Dutch fleet under vice-admiral Callemburgh, met off Malaga the count de Thoulouse with the whole French fleet, which was much superior to the English in number, and had many gallies with them, that were of great use. Sir George Rooke called a council of war, in which it was resolved to engage the enemy; but there was not due care taken to furnish all the ships with a sufficient quantity of powder, for some had wasted a great part of their stock of ammunition before Gibraltar; however they had generally 25 rounds, and it had seldom happened, that so much powder was spent in an action at sea. On the 13th of August, as the two fleets engaged, sir Cloudesly Shovel advanced with his squadron to a close fight, for it was the maxim of our seamen to fight as near as they could; and he had the advantage, and the enemy's van gave way in no little confusion, as did their rear soon after, being no less vigorously attacked by the Dutch. But the enemies being very strong in the centre, and some of the English ships being obliged to go out of the line for want of shot, (occasioned by the great expence of it at Gibraltar) several of sir George Rooke's own squadron suffered very much. About seven in the evening, one of the French admiral's seconds advanced out of the line, and began a close fight with the St. George, commanded by sir John Jennings, but, notwithstanding the St. George had already suffered much, she met with such rough treatment, that she had difficulty enough to rejoin the line, after the loss of both her captains and many of her men. The engagement continued till night parted them, and, if the French had come to a new engagement next day, it might have been fatal, since many of our ships were without shot, whilst others had enough and to spare. In this long and hot action there was no ship on either side, that was taken, sunk, or burnt. The English made a shew the next day of preparing for a second engagement, but the enemy bore off, to the great joy of our fleet. The

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French suffered much in the action, and went into Toulon so disabled, that they could not be put in a condition to go to sea again in many months. They left the sea, as the field of battle, to the English; so that the honour of the action remained with us, though the nation was not greatly elated with the news of a drawn battle at sea with the French: It was long before a certain account of the action was brought to England; but the modesty, with which the French king wrote of it to the archbishop of Paris, put us out of all fears; for, whereas the French stile was very boasting of their successes, in this case it was only said, that the action was to his advantage. From that cold expression the English concluded, that the victory was on their side. When the full account was sent home from our fleet, the partialities on both sides appeared very signally. The Tories magnified this as a great victory; but persons skilled in naval affairs, differed much in their sentiments, about sir George Rooke's conduct in that action, some not only justifying, but extolling it as much as others condemned it."

THIRD SESSION OF THE FIRST PARLIAMENT OF QUEEN ANNE.

The Queen's Speech on opening the Session.] October 29. The parliament met for the dispatch of business, when her majesty made the following Speech to both Houses.

"My Lords and Gentlemen;

"The great and remarkable success with which God hath blessed our arms in this summer, has stirred up our good subjects in all parts of the kingdom to express their unanimous joy and satisfaction: and I assure myself you are all come disposed to do every thing that is necessary for the effectual prosecution of the war; nothing being more obvious, than that a timely improvement of our present advantages will enable us to procure a lasting foundation of security for England and a firm support for the liberty of Europe: this is my aim. I have no interest, nor ever will have, but to promote the good and happiness of all my subjects.

"Gentlemen of the House of Commons; I must desire such Supplies of you, as may be requisite for carrying on the next year's service both by sea and land, and for punctually performing our treaties with all our allies; the rather, for that some of them have just pretensions depending ever since the last war: and I need not put you in mind of what importance it is to preserve the public credit, both abroad and at home.—I believe you will find some charges necessary next year, which were not mentioned in the last sessions, and some extraordinary expences incurred since which were not then provided for.—I assure you, that all the Supplies you give, with what I am able to spare from my own expences, shall be carefully applied to the best advantage for the public service: and I earnestly recommend to you a speedy dispatch, as that, which under the good providence of God, we must chiefly depend upon, to disappoint the earliest designs of our enemies.

"My Lords and Gentlemen, I cannot but tell you how essential it is for attaining those great ends abroad, of which we have so hopeful a prospect, that we should be entirely united at home.—It is plain, our enemies have no encouragement left, but what arises from their hopes of our divisions. It is therefore your concern not to give the least countenance to those hopes.—My inclinations are to be kind and indulgent to you all. I hope you will do nothing to endanger the loss of this opportunity which God has put into our hands, of securing ourselves and all Europe; and that there will be no contention among you but who shall most promote the public welfare.—Such a temper as this in all your proceedings cannot fail of securing your reputation both at home and abroad.—This would make me a happy queen, whose utmost endeavours would never be wanting to make you a happy and flourishing people."

The Lords' Address.] Oct. 30.—The two Houses immediately voted congratulatory Addresses; and, the next day the following one was presented by the Lords:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual, and temporal, in parliament assembled, beg leave to return our humble and hearty thanks to your majesty for your most gracious Speech to your parliament.—The kindness and indulgence your majesty hath expressed for all your subjects: your care to create a perfect union among us, by forewarning us of the mischiefs of divisions; your goodness in declaring your own happiness to depend upon that of your people; your desire to see that happiness settled upon a lasting foundation; your strict regard to treaties: your justice to public engagements, abroad as well as at home; and, your noble concern for the support of the liberties of Europe, comprehend all the royal qualities, that can be desired in a sovereign; and when they are all so manifestly united in your royal person, we, and the whole nation should be inexcusable to God and the whole world, to this age and to posterity, if we should not endeavour effectually to accomplish all those great and excellent designs, which your majesty hath so wisely and graciously recommended.—We, for ourselves, faithfully assure your majesty, that we will do all in our power to bring this session to a happy and speedy conclusion; and to improve, to the utmost, the blessed opportunity, that God hath put into our hands.—Upon this occasion of approaching your majesty, we desire humbly to congratulate the great and glorious success of your majesty's arms, in conjunction with those of your allies, under the command of the duke of Marlborough. We can never enough admire your wisdom and courage, in sending that seasonable and necessary assistance to the empire; and

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we cannot too much commend the secrecy and bravery, with which your orders were executed. —What remains for us to do, is, to beseech God, that the like success may attend your majesty's arms, till you see the protestant religion and the liberty of Europe, settled upon a firm and lasting foundation; and that your majesty may live many years, to have the pleasure and glory of beholding those parts of the world happy in the enjoyment of those blessings, which your majesty shall have procured for them."

The Queen's Answer.] To this the queen answered:

"I am very sensible of the great duty and affection you have expressed in the several particulars of this Address; and I return you my hearty thanks for your congratulation of our great success, and for the assurances of your readiness to concur in prosecuting it effectually."

The Commons' Address.] The Address presented by the Commons the same day was thus expressed:

"Most gracious sovereign;

"We, your majesty's most dutiful and loyal subjects, the knights, citizens, and burgesses, in parliament assembled, do beg leave to return to your majesty our most humble and hearty thanks for your majesty's most gracious speech from the throne; and to congratulate your majesty upon the great and glorious success, with which it hath pleased God to bless your majesty in the intire defeat of the united force of France and Bavaria, by the arms of your majesty and your allies under the command and by the courage and conduct of the duke of Marlborough; and in the victory obtained by your majesty's fleet under the command, and by the courage of sir George Rooke.—Your majesty can never be disappointed in your expectation from us, your faithful Commons, who all come disposed to do every thing necessary for the effectual prosecution of the war; and therefore your majesty may depend upon our providing such supplies, and giving such speedy dispatch to the public business, as may enable your majesty to pursue these advantages so happily obtained over the common enemy, which we can never doubt but your majesty's wisdom will improve to the procuring a lasting security for England, and a firm support for the liberty of Europe.—We are truly sensible, that nothing can be more essential for the attaining those great ends, than to be intirely united at home. We shall therefore use our utmost endeavours, by all proper methods, to prevent all divisions among us, and will have no contention, but who shall most promote and establish the public welfare both in church and state. Thus your majesty's reign will be made happy, and your memory blessed to all posterity."*

* "The Lords' Address was universally applauded; but that of the Commons gave great offence; particularly, because it spoke in the same terms of the duke of Marlborough's victories and the advantages gained by sir George Rooke. It was also observed, that the promise, which they made to the queen, of using their utmost endeavours to prevent all divisions, was in a manner restrained by the addition of all proper methods, which many looked upon as ominous.

"The duchess of Marlborough, in the Account of her Conduct (p. 146,) makes the following observation on this occasion: My lord of Marlborough, before he had had sufficient opportunity of shewing the greatness of the general, had, for his first successes in the war, been complimented by this very House of Commons, as the retriever of the glory of the English nation, being then reputed a high-churchman. But now, that he was thought to look towards the moderate party, his compleat victory at Blenheim was, in the Address of congratulation to the queen, ridiculously paired with sir George Rooke's drawn battle with the French at sea." Tindal.

The Queen's Answer.] Her majesty's Answer was as follows:

"Gentlemen; I return you my hearty thanks for this Address and the assurances you give me of dispatching the supplies, and avoiding all divisions; both which, as they are extremely acceptable to me; so they will be advantageous to yourselves, and beneficial to the public."

However, after the Commons had taken the services of the army and navy into consideration, and by an unanimous vote, on the 2d of November, desired the queen to bestow her bounty upon the seamen and land-forces, who had behaved themselves so gallantly, they proceeded to the Supply. The several sums they granted for the navy, the army, and other necessary expences, amounted to 4,670,486*l.* which they resolved to levy by a land tax of 4*s.* in the pound, by continuing the duties on malt, by raising 877,931*l.* by sale of annuities, and by several other ways and means.

The Queen's Speech on passing the Land tax Bill.] They made so great a dispatch, that, on the 9th of December, the Land tax bill received the royal assent, on which occasion the queen made a short Speech to both houses as follows:

"My Lords and Gentlemen; I am glad of this occasion to return you my hearty thanks for your making good the assurances you gave me, in your several Addresses, of your zeal and readiness to promote the public business. And I must thank you, gentlemen of the house of Commons, in particular, for your early dispatch of so great a part of the necessary Supplies; which cannot fail of being a very essential advantage, both in the forwardness of our own preparations, and in the great encouragement it will give to all our allies.—My lords and gentlemen, I look upon this good beginning to be so sure a pledge of your affections for my ser-

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vice, and for our common interest, that I have not the least doubt but you will continue with the same zeal to dispatch what remains of the public business, and to bring this session to a happy and speedy conclusion."

The Occasional Conformity Bill again brought into the Commons.] It was generally wished, and indeed expected, in the court as well as in the city and country, that the "bill to prevent Occasional Conformity," which was the occasion of great divisions and contests in the two former sessions of this parliament, would not have been revived again at this juncture, when all parties ought to have suspended their animosities, and joined in celebrating the successes of her majesty's arms. But, notwithstanding all the endeavours used by the ministry to engage the leading-men of the high church party to restrain their zeal, till they might have an opportunity of gratifying it, without obstructing the public business, the parliament had not sat long before Mr. William Bromley moved in the House of Commons for leave to bring in that bill. This motion met with great opposition from all the moderate party, among whom appeared many courtiers, particularly Mr. Henry Boyle, Chancellor of the Exchequer, who spoke strenuously against it. But though it was carried in the affirmative, yet the chief of the high-church party debated several days in their private assemblies, whether they should bring in the bill or not? Though many urged strong reasons for the negative, yet the bill was brought in, but moderated in several clauses: for those, who pressed it, were now resolved to bring the terms as low as possible, in order once to carry a bill upon that head. Upon the first reading of it, after a warm debate, the question was carried for a second reading.

Endeavours to tack it to the Land-Tax Bill.] This vigorous struggle against the bill, even in the House of Commons, made the patrons of it justly apprehensive, that it would never pass by itself through the Lords; and therefore, after a long consultation in their chief meeting, and (as was then whispered) by the suggestion of Mr. Secretary Harley, in whom they still reposed great confidence, but who designed to decoy them into a snare, they resolved to attempt the tacking of it to the Land-tax bill. Accordingly, Nov. 28, on the second reading of the Occasional Conformity bill,

Mr. *Bromley* made a long speech, wherein, among other things, he urged, "That the practice of Occasional Conformity was such a scandalous hypocrisy, as was no way to be excused upon any pretence whatsoever. That it was condemned even by the better sort of dissenters themselves. That the employing persons of a different religion from that established by law had never been practised by any wise government, and was not allowed even in Holland. That the sacramental-test was appointed by the wisdom of the legislature to preserve the established church; which church seemed in as much danger from the dissenters at this time as it was from papists, when the act was made. That this law, being so necessary, and having been twice refused in the House of Lords, the only way to have it pass was to tack it to a money-bill. That it had been an ancient practice to tack bills, that were for the good of the subject, to money-bills, it being reasonable, that, while grievous taxes were laid upon the subject, for the support of the crown, the crown should, in return, pass such laws, as were for the benefit of the people. That the great necessity there was for the money bill's passing, was rather an argument for than against this proceeding. For what danger could there be, that the Lords, who pretended to be such great patriots, should rather lose the necessary supplies, than pass an act so requisite for the preservation of the church. That, however, if they should suppose them so unreasonable, the matter was not yet so bad, for it was only but proroguing the parliament for a few days, and then the Commons might pass the Land-tax bill again without the tack. He concluded with moving, That the bill to prevent Occasional Conformity might be tacked to the Land-tax bill."

This motion occasioned a long and warm debate. The design of the party was, that the Lords should be put under a great difficulty; since if they should untack the bill, and separate one from the other, then the House of Commons would have insisted on a maxim, which was now settled among them as a fundamental principle never to be departed from, that the Lords cannot alter a money bill, but must either pass it, or reject it, as it is sent to them.—On the other hand, the Lords could not agree to any such tack, without departing from that solemn Resolution which was in their books signed by most of them, never to admit of a tack to a money-bill; and, if they yielded now, they taught the House of Commons the way to impose any thing on them at their pleasure. The party in the Commons put their whole strength on the carrying this point. They went farther in their design; that which was truly aimed at by those in the secret, was to break the war, and to force a peace. They knew, that a bill with this tack could not pass in the House of Peers; for some lords even of their own party confessed, that they would never pass it in that manner. By this means money would be stopped; and this would throw all matters into great confusion both at home and abroad, and dispose the allies, as despairing of any help from England, to accept of such terms as France would offer them. Thus an artful design was formed to break, or at least to shake, the whole alliance. The court was very apprehensive of this, and the lord-treasurer Godolphin opposed it with much zeal. The party disowned the design for some time, till they had brought up their whole strength, and thought they were sure of a majority. The debate held long: Those who opposed the tacking, urged, that it was a change of the whole constitution, and was in effect turning it into a common-wealth, for it imported

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the denying, not only to the Lords, but to the Crown, the free use of their negative in the legislature. If this was once settled, then, as often as the public occasions made a money-bill necessary, every thing, which the majority in the Commons had a mind to, would be tacked to it. It is true, some tacks had been made to money-bills in king Charles's time; but even those had still some relation to the money which was given. But in this case a bill, whose operation was only for one year, and which determined as soon as the four shillings in the pound were paid, was to have a perpetual law tacked to it, which must continue in force, after the greatest part of the act was expired.

Besides these arguments, Mr. Sec. Hedges and the lord Cutts represented to the House that the duke of Marlborough had lately concluded a treaty with the king of Prussia for 8,000 of his men, to be employed towards the relief of the duke of Savoy, who was in most imminent danger. That these troops were actually on their march upon the credit of a vote of that House, that they would make good her Majesty's treaties: And that the obstructing the money-bills, which the tacking would infallibly do, would put an immediate stop to the march of those troops, and thereby occasion the intire ruin of the duke of Savoy.

Lord *Cutts* urged, "That the English nation was now in the highest consideration abroad: That all Europe was attentive to the resolutions of this parliament; and that, if any divisions should happen between the two Houses, it would cast a damp upon the whole confederacy, and give the French king almost as great advantage, as we had gained over him at Blenheim."

Mr. *Boyle*, Chancellor of the Exchequer, spoke on the same side, and asked, whether any wise man amongst them would venture his whole estate upon a vote; And, answering himself in the negative, then, added he, shall we now venture the safety of all England, nay, of all Europe, upon this vote?

Sir *John Hawles* perceiving, that many members had left the high-church party, observed, "That for his own part, he had been against this bill from the beginning, but he wondered, that those gentlemen, who had all along pretended, that the church of England was on the brink of ruin, unless such a bill should pass, did not pursue the only method, that might secure the passing of that bill. I put it (added he) to the conscience of those gentlemen, who, are come over to us, whether they were before satisfied, as to the reasonableness and necessity of this bill, since now they desert their own friends? I wish they had voted on our side two years ago, for it would have saved us a great deal of trouble, the greatest part of the nation a great deal of uneasiness, and themselves the confusion of abandoning their party at a pinch."

Sir *Thomas Littleton* spoke on the same side, and said, "By the tacking of this bill, we mean to throw a necessity upon the Lords to pass it. But suppose the Lords think fit to untack what we have tacked, and to acquaint us that they are ready to pass the money-bill, but will consider of the other; whose fault will the nation account it to be, that the queen's business is retarded?"

In answer to all these objections, some precedents were alledged, and the necessity of this bill for the preservation of the church was urged, which they saw was not like to pass, unless sent to the Lords so accompanied; which some thought was very wittily expressed by calling it a portion annexed to the church, as in a marriage; and they said they did not doubt but those of the court would exert themselves to get it passed, when it was accompanied with two millions as its price. Upon the division, the tack was rejected by a majority of 251 voices against 134.

The following is a LIST *of those who voted for and against the Tack:*

For the Tack.	*Against the Tack.*
Bedfordshire,	
Not One.	Lord Russel, Sir William Gostwick, William Spencer, Edward Carteret.
Berkshire,	
Sir John Stonehouse.	Richard Nevill, Lord Fitzharding, Richard Topham. Sir Owen Buckingham, Tanfield Vachell, William Jennings, Thomas Renda, Sir Simon Harcourt.
Buckinghamshire,	
Sir Henry Porker, John Drake, Sir Samuel Garrard, Sir James Etheridge.	Sir Richard Temple, Sir Edmund Denton, Roger Price, Charles Godfrey, Fleetwood Dormer, Richard Hampden, Richard Crawley, James Chase.
Cambridgeshire,	
Granado Pigot, Arthur Annesley.	Sir Rushout Cullen, Henry Boyle, Sir Henry Pickering, Anthony Thompson.
Cheshire,	
Sir George Warburton, Sir Roger Mostyn, Sir Henry Bunbury, Peter Shackerly.	Not One.
Cornwall,	
John Buller, Sir Richard Vivian, John Hoblin, William Cory, William Pole, Henry Poley, Charles Seymour, Sir Henry Seymour, Francis Scobell, John Manley, Joseph Sawle, John Anstis,	William Bridges, Thomas Dodson, Russel Roberts, Sir John Molesworth, Henry Vincent, Francis Roberts, Francis Godolphin, Sidney Godolphin, Thomas Carew, James Craggs, Alexander Pendarvis, Hugh Boscawen,

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James Praed,	William Hooker,	*Hertfordshire*,	
John Spark.	John Hicks,	Ralph Freeman,	Thomas Hale,
	Henry Fleming,	John Gape,	George Churchill.
	Renatus Bellot,	Charles Cæsar,	
	Francis Basset,	Richard Gulston.	
	Sir Nicholas Morrice,	*Huntingtonshire*,	
	Samuel Rolle,	Not One.	John Dryden,
	William Coryton,		William Naylor,
	Sir John Pole.		Earl of Orrery,
Cumberland,			Anthony Hammond.
Wilfred Lawson.	Thomas Stanwix,	*Kent*,	
	James Stanhope,	Sir Francis Leigh,	Sir Thomas Hales,
	Thomas Lamplugh.	William Cage,	Henry Lee,
Derbyshire,		Heneage Finch,	George Sayer,
John Curzon.	Thomas Coke,	Robert Crawford.	Edward Knatchbull,
	James Harpur,		Thomas King.
	Thomas Stanhope.	*Lancashire*,	
Devonshire,		Thomas Leigh,	Richard Ashton,
Sir Edward Seymour,	Sir William Courtney,	Orlando Bridgman.	Richard Fleetwood,
John Snell,	Robert Rolle,		Charles Stanley,
William Seymour,	Charles Trelawney,		Sir Cyril Wyche,
Thomas Coulson,	John Woolcomb,		Robert Heysham,
Arthur Champneys,	Sir Simon Leech,		Sir William Lowther,
Nathaniel Herne,	Thomas Northmore,		Sir Roger Bradshaigh,
Frederick Herne.	Nicholas Hooper,		Thomas Stringer,
	Richard Edgecumbe,		Ambrose Pudsey,
	Richard Hele,		William Clayton,
	Sir Walter Young.		Sir Thomas Johnson.
	John Bulteel,	*Leicestershire*,	
	Henry Maunton,	Sir George Beaumont,	John Verney,
	Sir Thomas Lear,	James Winstanley.	John Wilkins.
	Richard Keynel,	*Lincolnshire*,	
	William Cooper,	Lewis Dymock,	Sir Edward Irby,
	Sir Peter King,	Sir John Thorold,	Sir Edward Hussey,
	Thomas Bere,	William Cecil,	John Chaplin,
	Robert Burridge.	Charles Bertie.	Arthur Moore,
Dorsetshire,			Sir William Ellys,
Thomas Strangeways,	Sir William Phippard,		Richard Ellys.
Thomas Chaffin,	William Jolliffe,	*Middlesex*,	
Henry Thynne,	Nathaniel Napier,	Warwick Lake,	Sir Gilbert Heathcote.
John Banks,	Henry Henley,	Hugh Smithson,	
Richard Bingham,	John Burridge,	Sir Walter Clarges.	
Richard Fownes.	Anthony Henley,	*Monmouthshire*,	
	Charles Churchill,	Not One.	John Morgan.
	Alexander Pitfield,	*Norfolk*,	
	Sir John Cropley,	Thomas Palgrave.	Sir John Holland,
	Edward Nicholas,		Sir Jacob Astley,
	Sir Thomas Ernley,		Thomas Blofield,
	Thomas Erle.		Robert Walpole,
Durham,			Benjamin England,
Sir Henry Bellesis.	Sir Robert Eden,		John Nicholson.
	Sir William Bowes,	*Northamptonshire*,	
	Thomas Conyers.	John James.	Sidney Wort. Montagu,
Essex,			Sir Gilbert Dolben,
Sir Charles Barrington,	Sir Francis Masham,		Sir Matthew Dudley,
William Fytche,	Sir Isaac Rebow,		Francis Arundel,
John Comyns.	Sir Thomas Cook,		Charles Egerton,
	Sir Thomas Daval,		Thomas Wentworth.
	John Ellis.	*Northumberland*,	
Gloucestershire,		Bertram Stote.	Sir Francis Blake,
Not One.	Maynard Colchester,		Sir Henry Liddel,
	William Trye,		William Carr,
	John Hanbury,		Emanuel How,
	William Master,		Sir John Delaval,
	Richard Dowdeswell,		Samuel Ogle,
	Edmund Bray.		Jonathan Hutchinson.
Herefordshire,		*Nottinghamshire*,	
Henry Gorges,	James Bridges,	Sir Willough. Hickman,	John Thornhaugh,
Thomas Price.	Thomas Foley,	William Levinz.	Sir Francis Molineux,
	Lord Coningesby,		George Gregory,
	Edward Harley,		William Pierrepoint,
	Henry Cornwal.		Sir Matthew Jennison,
			James Saunderson.

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Oxfordshire,	
Sir Robert Jenkinson,	Sir George Elwys,
Sir Edward Norreys,	Spencer Compton,
Sir William Whitlock,	Sir Joseph Jekyll.
Will. Bromley,	Sir Thomas Felton.
Thomas Rowney,	
Francis Norreys,	
James Bertie,	
Sir William Glynn,	
Charles North.	
Rutlandshire,	
Richard Halford.	
Salop,	
Sir Edward Aeton.	Roger Owen,
	Richard Corbet,
	John Kynaston,
	Richard Mytton.
	Sir Humphrey Briggs,
	Sir Thomas Powys,
	Francis Herbert,
	George Weld,
	Charles Mason.
	Henry Bret.
Somersetshire,	
William Coward,	Nathaniel Palmer,
Henry Portman,	Sir Philip Sydenham,
Sir Jacob Bancks,	Robert Yate,
James Anderton.	Sir William Daines,
	William Blaithwait,
	Alexander Popham,
	Sir Francis Warre,
	Edward Clarke,
	Sir Thomas Wroth,
	George Balch,
	Alexander Lutterell,
	Sir Francis Wyndham,
	Sir Thomas Travell,
	John Hunt.
Southampton,	
Henry Holmes,	Richard Norton,
Leonard Bilson,	George Pitt,
William Stephens,	Lord William Powlet,
Francis Gwynn.	Geo. Rodney Bridges,
	Frederick Tilney,
	Adam de Cardonnel,
	William Gifford,
	Sir George Rooke,
	Anthony Morgan,
	Robert Mitchell,
	Lord Cutts,
	Anthony Barnaby,
	Henry Killegrew,
	Sir Thomas Hopson,
	John Leigh,
	William Ettricke,
	Thomas Dore,
	Paul Burrard,
	Richard Woollaston,
	John Shrimpton,
	John Smith,
	Francis Shepheard.
Staffordshire,	
Richard Dyot,	Henry Paget,
Joseph Girdler.	Edward Bagot,
	Sir Michael Biddulph,
	Thomas Foley,
	Walter Chetwynd,
	John Crew Offley,
	Rowland Cotton,
	Thomas Guy.
Suffolk,	
Earl of Dysert,	Sir Dudley Cullum,
John Bence,	Serjeant Whitaker,
Sir Charles Bloys,	Sir Richard Onslow,
Robert Kemp,	Charles Cox,
Sir Edmund Bacon,	John Cholmondeley,
Sir Edward Turner,	John Ward,
George Dashwood,	Sir Robert Clayton,
Sir Robert Davers.	Henry Harvey,
Surrey,	Morgan Randyll,
Leonard Wessel,	Denzil Onslow,
Sir John Parsons,	Maurice Thompson,
George Vernon,	Thomas Onslow.
Thomas Heath.	
Sussex,	
John Toke,	Thomas Pelham,
William Ellison.	Henry Lumley,
	John Miller,
	Henry Cowper,
	John Wicker,
	John Lukener,
	Laurence Alcock,
	Sir Nicholas Pelham,
	Richard Baine,
	John Perry,
	Nathaniel Gould,
	Samuel Sambroke,
	John Asgill,
	Sir Edward Hungerford,
	Charles Goring,
	John Conyers,
	Edmund Dummer,
	Carew Weekes.
Warwickshire,	
Sir John Mordaunt,	Not One.
Sir Christopher Hales,	
Thomas Gery,	
Francis Greville,	
Algernoon Greville.	
Westmoreland,	
Not One.	William Fleming,
	Henry Grahme,
	Lord Pierrepoint,
	James Grahme.
Wiltshire,	
Sir Richard How,	Robert Eyre,
Robert Hyde,	Sir John Hawles,
Charles Fox,	John Gauntlet,
Sir James Howe,	Sir James Ash,
Robert Bertie,	Thomas Jervis,
Henry Chivers,	Edward Ash,
William Harvey,	William Monson,
Henry Pinnel.	Henry Bertie,
	Sir Charles Hedges,
	Francis Merryweather,
	John Methuen,
	Lord Mordaunt,
	James Montagu,
	Thomas Bouchier,
	Edward Pauncefort,
	Thomas Webb,
	Samuel Barker,
	James Bruce,
	Edmund Webb,
	John Webb,
	Francis Stonehouse,
	Charles Mompesson,
	Henry St. John,
	Robert Bruce,
	Edward Jefferys.

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Worcestershire,	
Sir John Packington,	William Walsh,
Hugh Parker.	Samuel Swift,
	Thomas Wyld,
	Edward Foley,
	Charles Cox,
	John Rudge,
	Salway Winnington.
Yorkshire,	
Robert Byerley,	Lord Hartington,
James Darcy,	Sir John Kay,
Sir Bryan Stapleton.	Sir William Robinson,
	Tobias Jenkins,
	Sir William St. Quintin,
	William Maister,
	Christopher Stockdale,
	William Thompson,
	John Hungerford,
	John Sharpe,
	Sir William Hustler,
	Thomas Yorke,
	Henry Guy,
	Sir Henry Goodricke,
	Sir William Strickland,
	William Palmes,
	Sir Godfrey Copley,
	Sir Thomas Frankland,
	Robert Monckton,
	William Jessop,
	Sir Charles Hotham,
	William Gee,
	Robert Dormer,
	John Aislaby,
	Sir John Bland,
	William Lowther.
CINQUE-PORTS.	
John Mitchel.	William Ashburnham,
	John Pulteney,
	Matthew Aylmer,
	Philip Papillon,
	Sir Henry Furnese,
	Sir Philip Boteler,
	John Boteler,
	Walter Whitfield,
	John Brewer,
	Thomas Fagg,
	Edward Southwell,
	George Clarke,
	James Hodges,
	Sir William Thomas,
	William Lowndes.
WALES.	
Sir Humph. Mackworth,	Lord Bulkeley,
Thomas Bulkeley,	Coningesby Williams,
Henry Lloyd,	John Jeffreys,
Sir John Wynne,	Sir Jeffrey Jeffreys,
Sir Thomas Hanmer,	Griffith Rice,
Thomas Mostyn,	Richard Vaughan,
Edward Vaughan,	Sir Richard Middleton,
John Vaughan.	Edward Brereton,
	Thomas Mansel,
	John Langhorn,
	Thomas Harley,
	Robert Harley.
In all - - - 134.	In all - - - 251.

The report of the Bill, was made on Dec. 5. and a debate arising, Whether it should be engrossed or not, it was carried in the affirmative, Yeas 145, Noes 118. The Bill was read a third time, and passed on the 14th, Yeas 179, Noes 131.

The Occasional Conformity Bill sent up to the Lords, is debated and rejected by them.] Dec. 14. The Bill* was sent up to the Lords, and the next day it was read for the first time. If the queen had not been present, there would have been no long debate on that head, for it was scarce possible to say much, that had not been formerly said; but to give her majesty full information, since it was supposed that she had heard that matter only on one side, it was resolved to open the whole in her hearing. The topics most insisted on were, the quiet that the nation enjoyed by the toleration, on which head the severities of former reigns were laid open, both in their injustice, cruelty, and their being managed only to advance popery, and other bad designs. The peaceable behaviour of the dissenters, and the zeal they expressed for the queen and her government, were likewise copiously set forth, while others shewed a malignity to it. That which was chiefly urged was, that every new law made in the matter, altered the state of things from what it was, when the act for toleration first passed. This gave the dissenters an alarm: they might from thence justly conclude, that one step would be made after another, till the whole effect of that act should be overturned. It did not appear, from the behaviour of any among them, that they were not contented with the toleration they enjoyed, or that they were carrying on designs against the church. In that case it might be very reasonable to look for a further security; but nothing tending that way was so much as pretended: all went on jealousies and fears, the common topics of sedition. On the other hand, to support the bill, all stories were brought up to shew how restless and unquiet that sort of men had been in former times. The archbishop of York declared 'That he was for so much of the bill 'as concerned the church.' Whereupon the earl of Peterborough said, 'That he was glad 'to hear that learned prelate make a distinc-'tion between the ecclesiastical and political 'part of the bill; and he hoped, that all the 'Lords, who, in their consciences, were satis-'fied, as his grace seemed to be, that this bill 'was framed to serve a temporal, as well as a 'spiritual end, would vote against it.' The question being put, whether the bill should be read a second time, it was carried in the negative by a majority of 71 voices against 50, 51 members present, and 20 proxies, being for rejecting it; and 33 peers in the House, and 17 proxies, for giving it a second reading.

Proceedings in both Houses concerning Scotland.] By this time the Lords were engaged in an affair which made no less noise than the

* Burnet.

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Conformity-bill, and was occasioned by a speech of lord Haversham; his Lordship having acquainted the peers, that he had matters of great importance to lay before them, but that he desired it should be in a full house; all the Lords in town and in the neighbourhood were summoned to attend three days after; when his Lordship made a speech, of which these are the most remarkable passages:

Lord *Haversham.* "I would be far from detracting or lessening any man's just praise, and do really believe, that the wonderful victory obtained over the French, under the conduct and command of prince Eugene and the duke of Marlborough, if considered in all its circumstances, especially the unusual secrecy with which the orders were executed, is the greatest any history can shew us.—And, though our success at sea was not equal to what it was at land, yet the English courage and bravery shewed itself the same. I cannot indeed congratulate sir George Rooke's intire victory over the French; but I can, and do most heartily, his safe deliverance from them. —Let our victories be what they will ashore, while France is thus powerful at sea, and more so daily, not only by her new additions, but by our too easy concessions, as were those of St. Christopher's, Newfoundland, and Hudson's-bay; while our trade is thus neglected, and your lordships faithful and provident advice baffled by the dark counsels of nobody knows who; England, in my opinion, can never be safe.—Another thing that I shall take notice of, is the present state of the coin; and I dare venture to say, that, if such vast exportations be much longer continued and allowed, we shall have very little left at home. France may be beaten, but England must be beggared. I know we are not so sensible of this, because there is a paper-money now current; but, should there ever happen to be a stop there, I pray God preserve us from sinking all at once. The last thing that I shall mention to your lordships, is in relation to Scotland. I think I need but lay before your lordships the true matter of fact, to convince you how much it deserves your consideration. A little before the last sitting down of the parliament there, it was thought necessary to make some alteration in that ministry; and accordingly some were displaced to make room for others, taking some from each party, who might influence the rest. Things being thus prepared, and a motly ministry set up, the parliament met about the 6th of July last. And, though the succession to the crown in the protestant line was the main thing recommended with the greatest earnestness by the queen in her letter to them, yet was it so postponed and baffled, that at length it came to nothing; partly, because the ministry was so weak and divided, that, instead of doing every thing, they could do nothing; and partly from a received opinion, that the succession itself was never sincerely and cordially intended, either by the ministry there, or by those that managed the Scots affairs here.—This is very evident; for, at the opening of the session, my Lord Secretary himself distinguishes between a secret and revealed will. And not only that, but upon the fourth Sederunt (as they call it) a motion was made for a bill of exclusion; I take it formally to be so, though it bears the title of an Act of Security, which was read the first time on the 7th, and ordered to lie on the table till they heard from England, and, on the 10th, it passed into a law. Now can any reasonable man believe, that those who promoted a bill of exclusion there, or those who here advised the passing of it, could ever be really and cordially for the English succession. I know there is an exception in the act itself; but it is such a one as might have full as well been left out. For he that asks what he knows before will never be granted, only asks the denial. And yet this is not all, but in this very bill of exclusion, as I call it, all the heretors and boroughs are not only allowed, but ordained (as the word is) to be armed, and to exercise their fencible men once every month.—This being the fact (and, I think, I have stated it very truly) surely, my Lords, it is what deserves your consideration; and I shall make but one or two observations to your Lordships. There are two matters of all troubles; much discontent, and great poverty; and whoever will now look into Scotland, will find them both in that kingdom. It is certain, the nobility and gentry of Scotland are as learned and as brave as any nation in Europe can boast of; and these are generally discontented. And as to the common people, they are very numerous and very stout, but very poor. And who is the man that can answer what such a multitude, so armed, so disciplined, with such leaders, may do, especially since opportunities do so much alter men from themselves? And there will never be wanting all the promises and all the assistance France can give.

"Besides this, my lords, I take it to be of the last danger to England that there should be the least shadow or pretence of a necessity to keep up regular and standing troops in this kingdom in time of peace; for I shall always be of the same opinion, that what has been, may be. In short, my lords, I think every man wishes these things had not been; and in my opinion, there is no man, but must say, they should not have been. I shall end with an advice of my lord Bacon's. Let men, says he, beware how they neglect or suffer matter of troubles to be prepared; for no man can forbid the sparks that may set all on fire."

The Lords were variously affected with this speech; which though generally approved, as to that part of it, which related to the Scots affairs, yet was it no less unwelcome than unexpected to see the present ministry reflected upon, to whose counsels and management the nation owed its prosperity at home, and, in great measure, its successes abroad. And besides, some peers thought it derogatory to the

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duke of Marlborough, that prince Eugene should be named before him in the mention of an action, in which that prince acted but a second part. However, this speech was seconded by the earls of Rochester and Nottingham; the former particularly lamenting the ill consequences of the exportation of the coin, and insisting on the necessity of putting a stop to that evil. The lord-treasurer, who took this to be an oblique reflection on himself, said, "That, though it would not be difficult to demonstrate, that there never was so great a plenty of money in England, as at present, yet there was a sure way to increase that plenty, and prevent the exportation of coin, and that was by clapping up a peace with France. But then, added he, I leave it to the consideration of any wise man, whether we shall not thereby be shortly in danger of losing not only all our coin, but all our land to boot."

The Scots business being the most material part of the lord Haversham's speech, the 29th of November was appointed to consider of it, upon which day the queen went to the House of Peers, both to hear the debates about that important point, and to moderate by her presence any heats, which might arise*. This, however, had not all the desired effect; for the earl of Nottingham, having reflected on king William with relation to the treaty of partition, the lord Somers rose up and said, "That it was unbecoming a member of that House to sully the memory of so great a prince; and he doubted not, but a man, who could reflect upon king William before his successor, would do the same by her present majesty, when she was gone." As to the treaty mentioned by the earl of Nottingham, he added, "That there was a noble lord there present (meaning the earl of Jersey) who was the principal agent and plenipotentiary in that treaty, and whose duty, as well as interest, it was to vindicate both the memory of his late most gracious master and his own conduct." In the mean time the lord Mohun consulted with several peers, whether they should move to send the earl of Nottingham to the Tower. But this being the first time the queen did the House the honour of coming to hear their debates, they thought fit to decline that motion out of respect to her majesty. As to the main business of the day, the earls of Nottingham and Rochester urged the ill consequences of the Act of Security passed in Scotland: And it being answered, that the same was granted to prevent the danger of a rebellion in that kingdom, it was replied, "That, if the Scots had rebelled, they would have rebelled without arms; whereas, if they had a mind to rebel now, this act had legally supplied them with necessaries to support their rebellion." The more moderate represented, That, like skilful physicians and wise legislators, they ought rather to apply present remedies to a known evil, than to lose time in enquiring, whether or no it might have been prevented. It was after much declaiming moved, that the Lords might pass some votes upon the Scots Act. The Tories, who pressed this, intended to add a severe vote against all those, who had advised it; and it was visible at whom this was aimed. The Whigs diverted this: They said, that the putting a vote against an act passed in Scotland looked like claiming some superiority over them, which seemed very improper at that time: since that kingdom was possessed with a national jealousy on this head, which would be much increased by such a proceeding. More moderate methods were therefore proposed, in order to the making up of a breach in this island, with which it seemed to be threatened; and, at last the grand committee of the Peers came to these resolutions, "That the best method to prevent the inconveniences, which might happen by the late acts passed in Scotland, was by making such laws here for that purpose: That the queen be enabled by act of parliament, on the part of England, to name commissioners to treat about an Union with Scotland, provided, that these powers be not put in execution, till commissioners should be named on the part of Scotland by the parliament there. That Scotsmen should not enjoy the privileges of Englishmen, except such as are settled in this kingdom, in Ireland, and the plantations, and such as are or shall be in our land or sea-service, until an Union be had, or the succession settled as in England. That the bringing of cattle from Scotland into England be prevented. That the lord admiral or commissioners of the Admiralty, for the time being, be required to give orders to her majesty's ships, to take such ships, as they shall find trading from Scotland to France, or to the ports of any of her majesty's enemies; and that cruizers be appointed for that end. And that the exportation of English wool into Scotland be carefully hindered." These Resolutions being approved by the House, the judges were ordered to reduce them into bills; one of which for an entire Union, was read a third time, and passed the 20th of December, and sent to the Commons for their concurrence. On the 9th, the Lords presented an Address to the queen, importing,

"That, having taken into consideration divers acts of parliament lately passed in Scotland, and duly weighed the dangerous and pernicious effects which were likely to follow from them, they were preparing bills for preventing such great evils; and, in the mean time, they thought themselves bound to represent to her majesty, as their humble opinion, that it was

* "The queen began this winter to come to the House of Peers upon great occasions to hear their debates, which, as it was of good use for her better information, so it was very serviceable in bringing the House into better order. The first time she came, was, when the debate was taken up concerning the Scots act: she knew the Lord Treasurer was aimed at by it, and she diverted the storm by her endeavours, as well as she restrained it by her presence." Burnet.

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highly requisite for the safety of this kingdom, that speedy and effectual orders be given for putting of Newcastle into a condition of defence, for securing the port of Tinmouth, and for repairing Carlisle and Hull. They also besought her majesty to cause the militia of the 4 northern counties to be disciplined and provided with arms and ammunition; and a competent number of regular troops to be kept upon the northern borders of England and in the north parts of Ireland: and to direct the laws to be effectually put in execution against all papists in respect to their arms and persons, and to order a particular account of what was done, in execution of her commands, to be laid before her majesty in counsel without delay."

To this Address the Queen answered, 'That 'she should direct a survey to be made of the 'several places mentioned in this Address, in 'order to lay it before the parliament: And 'what forces could be spared from their attendance here, should be quartered upon the 'borders, as they had been the last year: And 'that she would likewise give the necessary directions upon the other particulars of the Address.'

The Commons likewise, having in a grand committee, considered the State of the Nation with regard to Scotland, resolved on the 13th of December, that a 'Bill should be brought in 'for the effectual securing the kingdom of 'England from the apparent dangers, that 'might arise from several acts lately passed in 'the parliament of Scotland.'

And on the 11th of January, Mr. Conyers reported from the committee of the whole House, to whom it was referred to consider of heads for that bill, the Resolutions they had to come to, and which were as follow:

"That it be one head of the bill to enable her majesty to nominate and appoint commissioners for England to treat with commissioners from Scotland, for an Union between the two kingdoms. 2. That all natives of the kingdom of Scotland, except such as are settled and shall continue inhabitants of England, or the dominions thereunto belonging, or at present in the service of the army or navy, shall be reputed as aliens, unless the succession to the crown of Scotland be settled on the princess Sophia of Hanover and the heirs of her body being protestants. 3. That a more effectual provision be made to prevent the exportation of wool from England and Ireland into Scotland. 4. That provision be made to prevent the importation of Scots linen into England or Ireland, and to permit the exportation of the linen manufactures of Ireland in English bottoms into her majesty's plantations in the West-Indies. 5. That immediate provision be made to prevent the conveying of horses, arms, and ammunition, from England into Scotland. 6. That all the protestant free-holders of the six northern counties of England be permitted to furnish themselves with arms."

These Resolutions being read twice, all, except the last, were agreed to by the House, who appointed a committee to prepare and bring in a bill accordingly; and on the 16th of January, upon the second reading of the Lords bill to the same purpose, it was ordered to lie upon the table, because the Commons were resolved to adhere to a notion, which had now taken such root among them, that it could not be shaken, that the Lords could not put into a bill begun with them any clause, containing money-penalties, as they had done into this. This notion was indeed wholly new, for penalties upon transgressions could not be construed to be a giving of money. The Lords were clearly in possession of proceeding thus; so that the calling it in question was an attempt on the share, which the Lords had in the legislature. On the 1st of February, the Commons read it a third time, and passed their own bill relating to Scotland; and the following Christmas was the day prefixed for the Scots to enact the succession, or, on failure thereof, then this act was to have effect. A great coldness appeared in many of the Commons, who used to be hot on less important occasions: they seemed not to desire, that the Scots should settle the succession; and it was visible, that some of them hoped, that the Lords would have used their bill, as they had used that sent down by the Lords. Many of them were less concerned in the fate of the bill, because it diverted the censure, which they had intended to fix on the lord-treasurer. But the Lords were aware of this, and four days after the bill was sent up to them, passed it without any amendment. Those, who wished well to the Union, were afraid, that the prohibition, and the declaring the Scots aliens after the day prefixed, would be looked on as threatenings; and they saw cause to apprehend, that ill tempered men in Scotland would use this as an handle to divert that nation, which was already much soured, from hearkening to any motion that might tend to promote the Union, or the declaring the succession. It was given out by those, that this was an indignity done their kingdom, and that they ought not so much as to treat with a nation, that threatened them in such a manner. The marquis of Tweedale excused himself from serving any longer, upon which the duke of Argyle was appointed lord-high-commissioner in his room.

Thanks of the Lords to the Duke of Marlborough.] Dec. 15. The duke of Marlborough, upon his return to England, and first coming to the House of Peers, received the following compliment from the Lord-Keeper in the name of that House:

"My Lord Duke of Marlborough; The happy success that hath attended her majesty's arms under your grace's command in Germany the last campaign, is so truly great, so truly glorious in all its circumstances, that few instances in the history of former ages can equal, much less excel the lustre of it.—Your grace has not overthrown young unskilful generals,

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raw and undisciplined troops; but your grace has conquered the French and Bavarian armies; armies that were fully instructed in all the arts of war, select veteran troops, flushed with former victories, and commanded by generals of great experience and bravery.—The glorious victories your grace has obtained at Schellenburgh and Hochstet, are very great, very illustrious in themselves: but they are greater still in their consequences to her majesty and her allies. The emperor is thereby relieved; the empire itself freed from a dangerous enemy in the very bowels of it; the exorbitant power of France is checked; and, I hope, a happy step made towards reducing of that monarch within his due bounds, and securing the liberties of Europe.—The honour of these glorious victories, great as they are, under the immediate blessing of Almighty God, is chiefly, if not alone, owing to your grace's conduct and valour. This is the unanimous voice of England, and all her majesty's allies.—My Lord, this most honourable House is highly sensible of the great and signal services your grace has done her majesty this campaign, and of the immortal honour you have done the English nation; and have commanded me to give you their thanks for the same. And I do accordingly give your grace the thanks of this House for the great honour your grace has done the nation, and for the great and signal services you have done her majesty and this kingdom, the last campaign."

The Duke's Answer.] The Duke's Answer was as follows:

"My Lords; I am extremely sensible of the great honour your lordships are pleased to do me. I must beg, on this occasion, to do right to all the officers and soldiers I had the honour of having under my command. Next to the blessing of God, the good success of this campaign is owing to their extraordinary courage. I am sure it will be a great satisfaction, as well as encouragement to the whole army, to find their services so favourably accepted."

The same day, a committee of the House of Commons waited on the duke, to give him also the Thanks of that House.

Thanks of the Commons to the Duke of Marlborough.] It was also unanimously resolved by the Commons to give the duke of Marlborough the Thanks of the House, for the eminent services he had performed to her Majesty and this kingdom, as well in the glorious Victories he had obtained by the Arms of her Majesty and her Allies under his command, as for his prudent negotiations with several princes and states; and having appointed a committee to attend his grace for that end, Mr. Comptroller reported on the 15th, That they had congratulated his arrival, as they were directed, and that thereupon his grace was pleased to say to this effect: "It is a great satisfaction to me to find, that my faithful endeavours in discharging my duty to the queen and to the public are so favourably accepted. I beg leave to take this opportunity of doing justice to a great body of officers and soldiers who accompanied me in this expedition, and all behaved themselves with the greatest bravery imaginable. And I am sure this honour done us by the House of Commons, in taking so much notice of it, will give a general satisfaction and encouragement to the whole army."

On the 16th, her Majesty was pleased to give the royal assent to the two following acts, viz. An act for raising monies by sale of several annuities for carrying on the present war: and an act for continuing the duties upon malt, mum, cyder, and perry, for one year: and also to five private bills.

The Queen's Message relating to the Manor of Woodstock.] Dec. 16. Mr. Chancellor of the Exchequer acquainted the House, that he had a Message signed by her Majesty: and he delivered it to Mr. Speaker, who read the same to the House, and was as followeth:

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"Her Majesty having taken into her consideration the Address of this House, relating to the great services performed by the duke of Marlborough, does incline to grant the interest of the crown in the honour and Manor of Woodstock, and hundred of Wootton, to him and his heirs; and desires the assistance of this House upon this extraordinary occasion.—The lieutenancy and rangership of the parks, with the rents and profits of the manor and hundred, being granted for two lives, her Majesty thinks it proper that incumbrance should be cleared."

A Bill ordered in thereon.] Upon which the House resolved, "That a bill be brought in to enable her majesty, to grant the honour and manor of Woodstock and hundred of Wootton, to the duke of Marlborough and his heirs." And it was further resolved, "That an humble Address be presented to her Majesty, that she would be graciously pleased to advance the money for clearing the present incumbrance upon the lieutenancy and rangership of the parks, rents, and profits of the honour and manor of Woodstock and hundred of Wootton, in order to the present settlement thereof upon the duke of Marlborough and his heirs."

PROCEEDINGS IN THE CASE OF THE AYLESBURY MEN. *

All the Proceedings in relation to the Aylesbury-Men, committed by the House of Commons: with the Report of the Lords Journal, and the Reports of the Conferences and of the Free Conference.

* Martis, 13 die Martii, 1704. Ordered, "That all the Proceedings in relation to the Aylesbury-Men, committed by this House, and this Report of the Lords' Journal, and Reports of the Conferences, and of the Free Conference, be printed.—Ordered, That Mr. Speaker do appoint the Printer of the said Proceedings and Reports."

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November 21. A complaint being made to the House of Commons that Robert Mead, an attorney at law, had proceeded in the Cause of Ashby and White, and others, (see p. 225.) since the last session of parliament, and taken the defendants in execution, in breach of the privilege of this House:

Ordered, That the matter of the said Complaint be heard at the bar of this House upon Thursday morning next. Ordered, That the

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"The last business of this session, with which this parliament ended, was the Case of the Aylesbury men. It has been related, what proceedings had been at law upon the election at Aylesbury. The Judgment that the Lords gave in this matter was executed, and, upon that, five others of the inhabitants brought their action against the constables, for refusing their votes. The House of Commons looked on this as a high contempt of their votes, and a breach of their privileges, to which they added a new, and till then, unheard-of crime, that it was contrary to the declaration they had made. At the same time they sent their message for these five men, (namely, John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horn) and committed them to Newgate, where they lay three months prisoners. They were all the while well supplied, and much visited, and therefore remained without making any application to the House of Commons. It was not thought advisable to move in such a matter, till all the money bills were passed; then motions were made, in the interval between the terms, upon the statute of Habeas Corpus, but that statute relating only to commitments by the royal authority, this did not lie within it.

"When the term came, a motion was made in the Queen's-bench upon the common law, in behalf of the prisoners for a Habeas Corpus. The lawyers, who moved it, produced the commitment in which their offence was set forth, that they had claimed the benefit of the law, in opposition to a vote of the House of Commons to the contrary. They said, the subjects were governed by the laws, which they ought and were bound to know, and not by votes of a House of Parliament, which they were neither bound to know nor to obey. Three of the judges were of opinion, that the court could take no cognizance of the matter, and that the prisoners ought to be remanded; but the chief justice Holt was of another mind. He thought a general warrant of commitment for breach of privilege, was of the nature of an execution; and, since the ground of commitment was specified in the warrant, he thought it plainly appeared, that the prisoners had been guilty of no offence, and that therefore they ought to be discharged. Though Holt's judgment seemed clear and solid, yet, as he was but one against three, the majority prevailed, and the prisoners were remanded to Newgate.

"Upon this Paty and Oviat, two of the prisoners, moved for a Writ of Error, to bring the matter before the Lords. This Writ was only to be obtained, by petitioning the queen, that the judgment of the court of the Queen's-bench might be brought before her majesty in parliament. The Commons were alarmed at these petitions, and resolved upon an Address to the queen, 'setting forth the undoubted right and 'privilege of the Commons of England in par-'liament assembled, to commit, for breach of 'privilege; and that the commitments of this 'House are not examinable in any other court 'whatsoever; and that no such Writ of Error 'was ever brought, nor doth any Writ of Error 'lie in this case: and that as this House had 'expressed their duty to her majesty, in giving 'dispatch to all the supplies; so they had an 'entire confidence in her majesty's goodness 'and justice, that she would not give leave for 'the bringing any Writ of Error in this case; 'which would tend to the overthrowing the un-'doubted rights and privileges of the Commons 'of England.'

"Ten judges (two only being of another mind) agreed, that, in civil matters, a petition for a Writ of Error was a petition of right and not of grace. It was therefore thought a very strange thing, which might have most pernicious consequences, for a House of Commons to desire the queen, not to grant a petition of right, which was plainly a breach of law, and of her coronation oath. It was no less strange for them to take upon them to affirm, that the writ did not lie, when that was clearly the work of the judicature to declare, whether it lay or not, which was unquestionably the right of the Lords, who only could determine that. Besides, their having supplied the public occasion, was a strange consideration to be offered to the queen, as an argument to persuade her to act against law, as if they had pretended, that they had bribed her to infringe the law, and to deny justice; since money, given for public service, was given to the country and to themselves, as properly as to the queen. Her answer to this Address was to this effect: 'That she was much 'troubled to find the House of Commons of 'opinion, that her granting the Writs of Error, 'mentioned in their Address, was against their 'privileges, of which she would always be as 'tender, as of her own prerogative: and there-'fore they might depend, she would not do any 'thing to give them any just occasion of com-'plaint. But this matter, relating to the course 'of judicial proceedings, being of the highest 'importance, she thought it necessary to weigh 'and consider very carefully, what might be 'proper for her to do, in a thing of so great 'concern.' This answer was thought so cold, that no thanks were returned for it; though a well composed House of Commons would certainly have thanked her for that tender regard to law and justice. The same day the answer was reported by Mr. Secretary Hedges, the Commons proceeded to carry their resentments to greater extremities, and having continued sitting till the evening, voted, 'That Mr. Fran-'cis Page, Mr. James Montegue, Mr. Nicholas

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said Robert Mead do attend this House upon Thursday morning next.

Nov. 24. The order of the day being read for the hearing the matter of the complaint against Robert Mead, an attorney at law, for having proceeded in the Cause of Ashby and White, and others, since the last session of parliament, and taken the defendants in execution,

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'Iechmere, and Mr. Alexander Denton, in 'pleading upon the return of the Habeas 'Corpus, on behalf of the five prisoners com- 'mitted by this House, were guilty of a breach 'of privilege;' and ordered them to be taken into custody. As they were apprehensive lest the queen should grant Writs of Error, whereby the five Aylesbury men might be discharged from their imprisonment, they also ordered them to be removed from Newgate, and taken into the custody of their serjeant at arms; which order was executed at midnight, with such circumstances of severity and terror, as have been seldom exercised towards the greatest offenders. These were such strange and unheard-of proceedings, that by them the minds of all people were much alienated from the House of Commons. But the prisoners were under such management, and so well supported, that they would not submit, nor ask pardon of the House. It was generally believed, that they were supplied and managed by the lord Wharton. They petitioned the House of Lords for relief, who resolved to proceed in the matter by sure and regular steps. They first came to the following general resolutions: '1. That neither house of 'parliament has any power, by any vote or de- 'claration, to create to themselves any new 'privilege, that is not warranted by the known 'laws and customs of parliament. 2. That 'every freeman of England, who apprehends 'himself to be injured, has a right to seek re- 'dress by action at law; and that the com- 'mencing and prosecuting an action at com- 'mon law against any person (not entitled to 'privilege of parliament) is no breach of the pri- 'vilege of parliament. 3. That the House of 'Commons, in committing to Newgate, Daniel 'Horne, Henry Bass, John Paton, junior, 'John Paty, and John Oviat, for com- 'mencing and prosecuting an action at the com- 'mon law, against the constables of Aylesbury, 'for not allowing their votes in election of mem- 'bers to serve in parliament, upon pretence, 'that their so doing was contrary to a declaration, 'a contempt of the jurisdiction, and a breach of 'the privilege of that House, have assumed to 'themselves alone a legislative authority, by 'pretending to attribute the force of a law to 'their declaration; have claimed a jurisdiction 'not warranted by the constitution, and have 'assumed a new privilege, to which they can 'have no title by the laws and customs of par- 'liament, and have thereby, as far as in them 'lies, subjected the rights of Englishmen, and 'the freedom of their persons to the arbitrary 'votes of the House of Commons. 4. That 'every Englishman, who is imprisoned by any 'authority whatsoever, has an undoubted right, 'by his agents or friends, to apply for and ob- 'tain a writ of Habeas Corpus, in order to pro- 'cure his liberty by due course of law. 5. That 'for the House of Commons to censure and 'punish any person, for assisting a prisoner to 'procure a writ of Habeas Corpus, or by vote, 'or otherwise, to deter men from soliciting, pro- 'secuting, or pleading upon such writ of Habeas 'Corpus, in behalf of such prisoner, is an at- 'tempt of dangerous consequence, a breach of 'the many good statutes provided for the liberty 'of the subject, and of pernicious example, by de- 'nying the necessary assistance to the prisoner, 'upon a commitment of the House of Commons, 'which has ever been allowed upon all commit- 'ments by any authority whatsoever. And, 6. 'That a writ of error is not a writ of grace, but 'of right, and ought not to be denied to the sub- 'ject, when duly applied for (though at the re- 'quest of either house of parliament) the denial 'thereof being an obstruction of justice, con- 'trary to Magna Charta.'

"These Resolutions being delivered to the Commons at a Conference, they took time to consider of them till the 7th of March, upon which day, at their desire, a second Conference was held, wherein the Commons delivered a long answer, in which they set forth, that the right of determining elections was lodged only with them; and that therefore they only could judge who had a right to elect: that they only were judges of their own privileges, and that the Lords could not intermeddle in them. They quoted very copiously the proceeding in the year 1675, upon an appeal brought against a member of their House; and urged, that their prisoners ought only to apply to them for their liberty; and that no motion had ever been made for a Writ of Error in such a case.

"The Lords, upon this, desired a Free Conference, which was held with the Commons on the 9th of March; but that it ended without success, was not surprising, considering the temper, with which the Commons came to it, and which appeared from the votes they made the day before, after they had agreed to the Free Conference. For, upon information, that their serjeant at arms had been served with two writs of Habeas Corpus, returnable before the Lord Keeper, in behalf of Mr. Montague and Mr. Denton, two of the gentlemen, who had been of counsel for the five prisoners, they came to these resolutions, 'That no commoner 'of England, committed by the House of Com- 'mons for breach of privilege, or contempt of 'that House, ought to be by any writ of Habeas 'Corpus made to appear in any other place, or 'before any other judicature. during that session 'of parliament, wherein such person was so com- 'mitted. That the serjeant at arms attending 'that House do make no return, nor yield any 'obedience to the said writs of Habeas Corpus; 'and, for such his refusal, that he have the pro- 'tection of the House of Commons. And that 'the Lord-keeper be acquainted with the said

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in breach of the privilege of this House: Ordered, That the hearings the said complaint be adjourned until Tuesday sevennight. That the said Robert Mead do attend this house upon Tuesday sevennight.

A further Complaint being made to the House, That since the Resolutions of this House the last session, upon the Case of Ashby and White, there had been several new actions brought by John Paty, John Oviat, John Paton, junior, and Henry Basse, and prosecuted by the said Robert Mead, against the constables of Aylesbury, in breach of the privilege of this House. Ordered, That the matter of the said complaint be also heard at the bar of this House upon Tuesday sevennight. That the said John Paty, John Oviat, John Paton, jun. and Henry Basse, do attend this House upon Tuesday sevennight. That copies of the original Declarations in the said actions be laid before this House.

Nov. 24. Ordered, That Daniel Horne, a plaintiff in one of the actions brought against the constables of Aylesbury, of which complaint was made to the House yesterday, do attend this House upon Tuesday sevennight.

Dec. 5. The orders of the day being read for the hearing the matter of the complaints of several breaches of privilege committed by Robert Mead, John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, and for their attending this House: The serjeant at arms was called upon, to give an account of what had been done for the summoning of them; and he acquainted the House, that his messenger had been at Aylesbury, and left a copy of the order at Mr. Mead's house, and at his chamber in Thavies-Inn, but that he does not attend; but that all the other persons had been summoned, and do attend.

And thereupon, Mr. Arthur Crabb was called for, and brought in with the mace to the bar who said: That he was attorney for the late constables of Aylesbury in five several actions, at the several suits of John Paty, John Oviat, John Paton, junior, Henry Basse, and Daniel Horne: And that he did serve Mr. Robert Mead, the 6th of March last, with the Resolutions of this House of the last session of parliament, relating to the Proceedings in the cause of Ashby and White and others, by giving him a copy thereof, and shewing him the Resolutions signed by the clerk of this House: And that he afterwards, viz. the 10th of June last, had from Mr. Mead copies of five Declarations in the said actions, viz. one from Mr. Mead himself, and the other four left at his house, which Mr. Mead afterwards owned, and that he paid Mr. Mead for them all.

'Resolutions, to the end that the said writs of 'Habeas Corpus might be superseded, as con-'trary to law, and the privilege of the House.' Five days after, the Commons ordered the Report of the Free Conference, which was made by Mr. Bromley, to be entered upon their Journals; and resolved, 'That the proceedings of 'the House, in relation to the Aylesbury men 'committed by the House for breach of privilege, 'and the other proceedings of that House in that 'matter, were in maintenance of the ancient 'and undoubted rights and privileges of the 'Commons of England:' and they ordered all the Proceedings in relation to the Aylesbury men, the Report of the Lords' Journals, and the Report of the Conferences, and of the Free Conference, to be printed. The next day, the Lords attended the queen with a full Representation of the whole thing, wherein having recited the matter of fact relating to this affair, they laid before her, 'That the proceedings of 'the House of Commons against the Aylesbury 'men were wholly new and unprecedented. 'That it is the birth-right of every Englishman, 'who apprehends himself to be injured, to seek 'for redress in her majesty's courts of justice. 'That if there be any power, that can controul 'this right, and can prescribe when he shall, and 'when he shall not, be allowed the benefit of 'the laws, he ceases to be a freeman, and his 'liberty and property are precarious. That the 'crown lays claim to no such power, and their 'lordships were sure the law has trusted no such 'authority with any subjects whatsoever.' They urged, that in former times the opinion of the House of Commons was very different from what it was at present, of which their lordships gave several instances; and they concluded with an humble request, 'That no importunity of 'the House of Commons, or any other conside-'ration whatsoever, might prevail with her ma-'jesty to suffer a stop to be put to the known 'course of justice, but that she would be pleased 'to give effecual orders for the immediate is-'suing of the Writs of Error.'

"This Representation was thought so well drawn, that some prefered it to those of the former sessions; it contained a long and clear deduction of the whole affair with great decency of style, but with many heavy reflections on the House of Commons.

"By this time the whole business of the session was brought to a conclusion; for the Lords, who had the money-bills, would not pass them till this was ended. The queen, in answer to their Representation, told them, 'That she should 'have granted the Writs of Error, they desired, 'but that finding an absolute necessity of put-'ting an immediate end to this session, she was 'sensible there could have been no further pro-'ceedings upon that matter.' This answer being reported to the House of Lords, was looked on by them as a clear decision in their favour, and therefore they ordered, 'That the humble 'thanks of their house be immediately present-'ed to her majesty, for her most gracious an-'swer, in which she had expressed so great a 'regard to the judgment of their house, so much 'compassion to the prisoners, and such tender-'ness to the rights of the subject.' About an hour after the queen came to the House of Lords, and, after passing the bills, ended the session." Tindal.

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Which copies of Declarations the said Mr. Crabb produced to the House, together with notice in writing from the said Mr. Mead, the 22d of July last, that he would try one of the said actions, but not the other four, at the then next assizes. And then he withdrew. And the notice was read. And the copy of the declaration between Paty and White & al' was also read.

And, *mutatis mutandis*, were the same with the former Declarations against White and others.

Then the said John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, were severally called in to the bar, and examined, and then withdrew.

Resolved, "That it appears to this House, That John Paty of Aylesbury has been guilty of commencing and prosecuting an action at common law against William White, and others, late constables of Aylesbury, for not allowing his Vote in the election of members to serve in parliament, contrary to the declaration, in high contempt of the jurisdiction, and in breach of the known privileges of this House.

"That it appears to this House, That John Oviat of Aylesbury has been guilty of commencing and prosecuting an action at common law against the late constables of Aylesbury, for not allowing his Vote in the election of members to serve in parliament, contrary to the declaration, in high contempt of the jurisdiction, and in breach of the known privileges of this House.

"That it appears to this House, That John Paton, jun., of Aylesbury, has been guilty of commencing and prosecuting an action at common law against the late constables of Aylesbury, for not allowing his Vote in the election of members to serve in parliament, contrary to the declaration, in high contempt of the jurisdiction, and in breach of the known privileges of this House.

"That it appears to this House, That Henry Basse of Aylesbury, has been guilty of commencing and prosecuting an action at common law against the late constables of Aylesbury, for not allowing his Vote in the election of members to serve in parliament, contrary to the declaration, in high contempt of the jurisdiction, and in breach of the known privileges of this House.

"That it appears to this House, That Daniel Horne of Aylesbury, has been guilty of commencing and prosecuting an action at common law against the late constables of Aylesbury, for not allowing his Vote in the election of members to serve in parliament, contrary to the declaration, in high contempt of the jurisdiction, and in breach of the known privileges of this House.

"That it appears to this House, That Robert Mead has been guilty of soliciting and prosecuting (as attorney at law) divers actions at common law against William White and others, late constables of Aylesbury, for not allowing divers Votes in the election of members to serve in parliament, contrary to the declaration, in high contempt of the jurisdiction, and in breach of the privileges of this House.

Ordered, "That the said John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, be, for their said offence, committed prisoners to her majesty's gaol of Newgate; and that Mr. Speaker do issue his warrants accordingly."

Ordered, "That the serjeant at arms attending this House do take care that the said warrants be executed."

Ordered, "That the said Robert Mead be, for his said offence, taken into the custody of the serjeant at arms attending this House."

Feb. 1, 1705. Ordered, "That the keeper of Newgate do to-morrow morning bring to this House John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, committed by this House; and that Mr. Speaker do issue his warrant or warrants accordingly."

Feb. 2. The House being informed, That the keeper of Newgate attended, according to order, with John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, committed by this House, several of them were severally called in and examined, and then withdrew. And also the keeper and his clerk, and turnkey, one Edward Hill, were called in and examined, and then withdrew.

Ordered, "That the said John Paty, John Oviat, John Paton, jun. Henry Basse, and Daniel Horne, be remanded prisoners to her majesty's prison of Newgate; and that Mr. Speaker do issue his warrants accordingly."

Feb. 24. The House being informed, That there have been endeavours to bring a Writ of Error on the proceedings in the court of Queen's-Bench, upon a Habeas-Corpus granted there for the persons committed by this House to Newgate for breach of their privilege, and thereby to bring the commitments of this House under the examination of the House of Peers:

Resolved, "That an humble Address be presented to her majesty, humbly to lay before her majesty the undoubted right and privilege of the Commons of England, in parliament assembled, to commit for breach of privilege; and that the commitments of this House are not examinable in any other court whatsoever: And that no such Writ of Error was ever brought, nor doth any Writ of Error lie in this case. And that as this House hath expressed their duty to her majesty, in giving dispatch to all the supplics, so they have an entire confidence in her majesty's goodness and justice, That she will not give leave for the bringing any Writ of Error in this case; which will tend to the overthrowing the undoubted rights and privileges of the Commons of England."

Ordered, "That the said Address be presented to her majesty by such members of this House as are of her majesty's most honourable privy council."

Resolved, "That whoever has abetted, pro-

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moted, countenanced, or assisted the prosecution of the several Writs of Habeas Corpus, brought for the prisoners committed by this House, and since their being remanded have endeavoured the procuring Writs of Error, are guilty of conspiring to make a difference between the Lords and Commons in parliament assembled, are disturbers of the peace of the kingdom, and have endeavoured, as far as in them lay, to overthrow the rights and privileges of the Commons of England in parliament assembled."

Ordered, "That a committee be appointed to examine what persons have been concerned in soliciting, prosecuting, or pleading, upon the Writs of Habeas Corpus, or Writs of Error, on the behalf of the persons committed to Newgate for breach of the privilege of this House: or what other persons have promoted or abetted the same." And a committee was accordingly appointed.

Feb. 26. Mr. Secretary Hedges acquainted the House that their Address of Saturday last, in relation to the Writs of Error therein mentioned, having been presented to her majesty, according to the Order, her majesty was pleased to give this gracious Answer:

"Her majesty is much troubled to find the House of Commons of opinion that her granting the Writs of Error mentioned in their Address, is against their privileges: of which her majesty will always be as tender as of her own prerogative; and therefore the House of Commons may depend, her majesty will not do any thing to give them any just occasion of complaint: but this matter, relating to the course of judicial proceedings, being of the highest importance, her majesty thinks it necessary, to weigh and consider very carefully what may be proper for her to do, in a thing of so great a concern."

Resolved, That this House will take her majesty's gracious Answer into consideration to-morrow morning.

The earl of Dysert reported, from the Committee appointed to examine what persons have been concerned in soliciting, prosecuting, or pleading upon the Writs of Habeas Corpus, or Writs of Error, on the behalf of the persons committed to Newgate for breach of the privileges of this House, or what other persons have promoted or abetted the same, the matter as it appeared to them; which they had directed him to report to the House, which he read in his place, and afterwards delivered in at the clerk's table, where the same was read: Upon which it was ordered that all the said persons so concerned should be taken in custody for breach of privilege.

And though the Commons had resolved before to take her majesty's Answer into consideration, yet being apprehensive lest her majesty should grant the Writs of Error, whereby the five Aylesbury-men might be discharged from their imprisonment, they ordered them to be removed from Newgate, and taken into the custody of the serjeant at arms; which Order was executed at midnight, with such circumstances of severity and terror, as have been seldom exercised towards the greatest offenders *.

Feb. 28. Mr. Bromley reported, That the members appointed to search the Journals of the House of Lords, what proceedings have been in that House, in relation to the five Persons committed to Newgate for breach of the privilege of this House, had searched the same accordingly, and had taken thereout what they found relating to the same; and also copies of two Petitions of the said persons; which he read in his place, and afterwards delivered in at the table, where the same were read, and are as follow, viz.

Feb. 26. "Upon reading the Petition of Daniel Horne, Henry Basse, and John Paton jun. as also the Petition of John Paty, and John Oviat, prisoners in Newgate, in relation to some proceedings for obtaining the Writs of Error, and praying, amongst other things, the protection of this House for their counsel and agents. It is ordered by the Lords spiritual and temporal in parliament assembled, That the said Petitions shall be taken into consideration to-morrow at 12 o'clock, and all the Lords summoned to attend; as also the judges in town, who are to come prepared to speak to the point, whether a Writ of Error be a Writ of Right or a Writ of Grace? And that the Petitioners have notice, that when they send to this House the names of their counsel and agents they desire to be protected, they shall have the protection of this House for them.

"In pursuance of the Order of this day made, Daniel Horne, Henry Basse, John Paton, jun. John Paty, and John Oviat, prisoners in Newgate, sent the names of their Counsel and Agents, viz. James Montague, esq., Nicholas Lechmere, Alexander Denton and Francis Page, Counsellors at Law. William Lee and John Harris, Attorneys at Law. Whereupon, it is ordered by the Lords spiritual and temporal in parliament assembled, that the said persons, shall, and they have hereby the protection and privilege of this House, in the advising, applying for, and prosecuting the said Writs of Error; and that all keepers of prisons, and jailors and all serjeants at arms, and other persons whatsoever, be, and they are hereby, for, or in respect of any of the cases aforesaid, strictly prohibited from arresting, imprisoning, or otherwise detaining or molesting, or charging the said persons, or any or either of them, as they and every of them will answer the contrary to this House."

The Serjeant at Arms being called upon to give an account what he had done pursuant to the Orders of the House on Monday last, since the account he gave yesterday: He gave the House an account accordingly: that he had found Mr. Denton at his own chamber, and had him in custody; but that he could not find the other persons.

* 3 Annals of queen Anne, p. 84.

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Conference between the two Houses.] Feb. 26, p. m. A message from the Lords, by Mr. justice Tracy, and Mr. baron Smith: "Mr. Speaker, The Lords desire a present Conference with this House in the Painted Chamber, about some antient fundamental Liberties of the kingdom."

Which was agreed to, and the managers being returned, the lord marquis of Hartington reported the Conference, and that it was managed by the earl of Sunderland, who expressed himself as followeth:

"That the Lords have desired this Conference with the House of Commons, in order to a good correspondence between the two houses, which they will always endeavour to preserve. When either House of parliament have apprehended the proceedings of the other to be liable to exception, the ancient parliamentary method has been to ask a Conference; it being ever supposed, that when the matters are fairly laid open, and debated, that which may have been amiss will be rectified, or else the House that made the objections will be satisfied, that their complaint was not well grounded.

"Such hopes as these have induced the Lords to command us to acquaint you, that, upon the consideration of the Petition of Daniel Horne, Henry Basse, and John Paton jun., and also of the Petition of John Paty, and John Oviat, complaining to the House of Lords, that they have been prisoners in Newgate for about twelve weeks, upon several warrants, signed by the Speaker of the House of Commons, bearing date the 5th of December last, for their having commenced and prosecuted actions at common-law, against the late constables of Aylesbury, for not allowing their Votes, at an election of members to serve in parliament; which actions, they alledged, they were encouraged to bring, by reason of a Judgment given in parliament upon a Writ of Error, brought in the last session by one Ashby against White, and others; and also representing by the same Petitions, what had been done by them respectively since their said commitment, in order to obtain their liberty, and praying the consideration of the House of Peers upon the whole matter; and also upon consideration of a printed Paper, entitled, 'The 'Votes of the House of Commons,' signed with the Speaker's name, and dated the 24th of this instant February; the House of Lords found themselves obliged to pass several Resolutions, which they have commanded us to communicate to you at this Conference; and are as follow:

'1. It is Resolved by the Lords spiritual 'and temporal in parliament assembled, That 'neither house of parliament hath any power, 'by any Vote, or Declaration, to create to 'themselves any new privilege, that is not warranted by the known laws and customs of 'parliament.

'2. That every freeman of England, who 'apprehends himself to be injured, has a right 'to seek redress by action at law: and that the 'commencing and prosecuting an action at 'common law, against any person (not entitled to privilege of parliament,) is no breach 'of the privilege of parliament.

'3. That the House of Commons, in committing to Newgate, Daniel Horne, Henry 'Basse, and John Paton, jun. John Paty and 'John Oviat, for commencing and prosecuting 'an action at common-law, against the late 'constables of Aylesbury, for not allowing their 'Votes in election of members to serve in parliament, upon pretence that their so doing 'was contrary to a declaration, a contempt of 'the jurisdiction, and a breach of the privilege of 'that House, have assumed to themselves alone 'a legislative power, by pretending to attribute 'the force of a law to their declaration, have 'claimed a jurisdiction, not warranted by the 'constitution, and have assumed a new privilege, to which they can shew no title by the 'law and custom of parliament: and have 'thereby, as far as in them lies, subjected the 'Rights of Englishmen, and the freedom of 'their persons, to the arbitrary Votes of the 'House of Commons.

'4. That every Englishman, who is imprisoned by any authority whatsoever, has an 'undoubted right, by his agents, or friends, to 'apply for, and obtain a Writ of Habeas Corpus, in order to procure his liberty by the due 'course of law.

'5. That for the House of Commons to 'censure, or punish any person for assisting 'a prisoner to procure a Writ of Habeas Corpus, or by vote, or otherwise, to deter men 'from soliciting, prosecuting, and pleading 'upon such Writ of Habeas Corpus, in behalf 'of such prisoner, is an attempt of dangerous 'consequence, a breach of the many good statutes provided for the liberty of the subject, 'and of pernicious example, by denying the necessary assistance to the prisoner, upon a commitment of the House of Commons, which 'has ever been allowed upon all commitments 'by any authority whatsoever.

'6. That a Writ of Error is not a Writ of 'Grace, but of Right, and ought not to be denied to the subject, when duly applied for, '(though at the request of either House of 'parliament,) the denial thereof being an obstruction of justice, contrary to Magna 'Charta.'

"In these Resolutions, the House of Lords have expressed that regard and tenderness which they have always had, and will ever maintain for the rights of the people of England, and for the liberties of their persons; and also their zeal against all innovations to the prejudice of the known course of law, whereupon the happiness of our constitution depends; and they hope that, upon recollection, the House of Commons will be of the same opinion in all the particulars resolved by the Lords, and agree with their lordships therein."

Ordered, That the said Report be taken into consideration to-morrow morning: When the

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Managers of the last Conference were appointed to draw up a proper Answer.

March 6. The Serjeant at Arms attending this House, acquainted the House, that a person had this morning brought him a Writ of Habeas Corpus, under the great seal, for Mr. Mountague (in his custody by order of this House) to be brought, as he was informed, before the Lord Keeper of the great seal of England: And he delivered the Writ, under seal, in at the table. And it appearing by the label to be returnable *immediatè*, but not before whom he was to be brought, nor any officer's name thereto, the Writ was opened by the Clerk, and read, and is as followeth:

'Anna Dei gratia Ang' Sco' Franc' et Hibern' Regina, Fidei Defensor, &c. Samuelì Powel Ar' serv' ad arma attenden' Honorab' Dom' Commun' ejus deputato et deputatis salutem. Precipimus vobis et cuilibet vestrum quod corpus Jacobi Mountague Ar' nuper capt' et in custod' vestra vel alicujus vel unius vestrum ut dicitur detent' sub salvo et securo conduct' una cum die et causa captionis et detentionis pred' Jacobi Mountague quocunque nomine idem Jacob' Mountague censeatur in eadem habeatis seu aliquis vel unus vestrum habeat cor' predilecto et fidel' nostro prehonorab' Nathan Wright Mil' Dom' custod' Mag' Sigil' nostri Angl' apud Dom' Mansional' suam in parochia sancti Egidii in campis, in com' Mid' immediatè post reception' hujus brevis ad faciend' subjiciend' et recipiend' ea omnia et singula que dictus dominus custos Magni Sigil' nostri Angl' de eo ad tunc ibidem cons' in hac parte et habeatis seu aliquis vel unus vestrum habeat ibi hoc breve. Teste meipsa apud Westm' sexto die Martii anno regni nostri tertio.'

The Label.

'Samuel' Powel Ar' servien' ad arma, &c. H. corp' pro Mountague Ar' R. immediatè.'

Endorsed. 'Per statutem tricesim' prim' Caroli secundi Regis.'

'N. WRIGHT, C. S.'

The Serjeant also acquainted the House, that he heard there was another Habeas Corpus granted for Mr. Denton, in his custody also.

While the matter (upon occasion of the said forementioned Writ) was debating, the Serjeant acquainted the House, that the other Writ of Habeas Corpus, was just served upon his deputy, who had Mr. Denton in his custody: And he also delivered the same in at the Clerk's table, where it was read, and was the same, *mutatis mutandis*, with the former.

And the precedents of what was done in the year 1675 were, by order, read: And several members mentioned, upon their memory, what was done in the year 1680, in the Case of one Mr. Sheridan.*

But the House were of opinion, that any person committed by the House of Commons was not bailable, within the act of Habeas Corpus of 31 Car. 2, but came not then to any resolution.

Reasons of the Commons to be offered at a second Conference.] The same day Mr. Bromley reported, from the Committee appointed to draw up what is proper to be offered to the Lords at the next Conference, that they had drawn up the same accordingly, which they had directed him to report to the House; which he read in his place, and afterwards delivered in at the Clerk's table, where the same was read, and, with some amendments, agreed unto by the House: And the same is as follows, viz.

The Commons have desired this Conference with your lordships, in order to preserve that good correspondence between the two Houses, which the House of Commons shall always sincerely endeavour to maintain, and which is so particularly necessary at this time of common danger, that the Commons would not engage in any thing that looks like a dispute with your lordships, were it not for the necessity of vindicating, from a manifest invasion, the privileges of all the Commons of England, (with which the House of Commons is entrusted) even those privileges which are essential not only to the well being, but to the very being of an House of Commons, and the preventing of the ill consequences of those misunderstandings, which, if they are not speedily removed, must otherwise interrupt the happy conclusion of this session, and the proceedings of all future parliaments.

It was this consideration alone has so long prevailed with the House of Commons, not to insist on due reparation for those violent and unparliamentary attempts, made by your lordships upon their rights and privileges, at the end of the last session of parliament, but to apply themselves to the giving the speediest dispatch, to those supplies which her majesty so earnestly recommended from the throne, which are so necessary to enable her majesty to pursue the advantages that have been obtained against the common enemy, by the great and glorious success of her majesty's arms: And which are now delayed in your lordships' House, in so unusual a manner.

The Commons do agree to your lordships, that when either House of Parliament have apprehended the proceedings of the other to be liable to exception, the ancient parliamentary method has often been to ask a Conference; because it ought to be supposed, that when the matters are fairly laid open and debated, that which may have been amiss will be rectified, or else the House that made objections will be satisfied that their complaint was not well grounded. But your lordships seem so little to desire to have matters fairly laid open and debated, that, to the great surprise of the Commons, when your lordships have invited them to a Conference, about some antient fundamental liberties of the kingdom, they found only

* See vol. 4, p. 1252.

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the antient and fundamental rights of the House of Commons, and their proceedings, censured, and treated in a manner unknown to former parliaments; and that your lordships had anticipated all debates, by delivering positive Resolutions; and these proceedings of your lordships, grounded only upon the petitions of criminals, that had fallen under the just censure and displeasure of the Commons, and upon a printed paper, which was not regularly before your lordships.

Though this manner of proceeding, as well as the matters of your lordships Resolutions, might have justified the House of Commons in refusing to continue Conferences with your lordships, as their predecessors have done upon less occasions; and though the Commons cannot submit their privileges to be determined or examined by your lordships, upon any pretence whatsoever; yet, that nothing may be wanting on their part to induce your lordships to retract these Resolutions, they proceed to take them into their consideration.

Your Lordships' first Resolution is, viz. 'That 'neither House of Parliament hath any 'power, by any Vote or Declaration, to 'create to themselves any new Privilege that 'is not warranted by the known laws and 'customs of Parliament.'

As the Commons have guided themselves by this rule, in asserting their privileges, so they wish your lordships had observed it in all your proceedings. This had entirely taken away all colour for disputes between her majesty's two Houses of Parliament, and many just occasions of complaint from those the Commons represent. This would effectually put an end to that encroachment in judicature, so lately assumed by your lordships, and so often complained of by the Commons; we mean the hearing of Appeals from Courts of Equity, in your lordships' House. This would have hindered the bringing of original causes before your lordships, and your unwarrantable proceedings upon the Petition of Thomas lord Wharton, complaining of an Order of the Court of Exchequer, bearing date the 15th of July, 1701, for filing the record of a Survey of the honour of Richmond and lordship of Middleham in the county of York; an attempt which (contrary to the antient, legal judicature of parliament heretofore exercised, for the relief of the subject oppressed by the power of the great men of the realm) was, in favour of one of your own body, to suppress a public record, which all her majesty's subjects had an undoubted right to make use of; an attempt that tends to render all fines and recoveries, and other records, upon which estates and titles depend, precarious; and consequently subjects the rights and properties of all the Commons of England, to an illegal and arbitrary power.

A due regard to the same rule, would have prevented your lordships entertaining the Petitions mentioned at the last Conference, which set forth, "That the Lords having given Judgment in the Case of Ashby and White, viz. That, by the known laws of this kingdom, every freeholder, or other person, having a right to give his vote at the elections of members to serve in parliament, and being wilfully denied or hindered so to do, by the officer who ought to receive the same, may maintain an action in the Queen's courts, against such officer, to assert his right and recover damages for the injury:" The Petitioners thereupon brought the like actions in their own cases.

Whereby an extrajudicial Vote of your lordships is stated as a Judgment of parliament, and standing law in that case, your lordships having no foundation for the entertaining such petitions, unless, that, after having assumed to yourselves the hearing of appeals from courts of equity, you would now bring appeals to your lordships from the proceedings of the Commons, who are not accountable to your lordships for them.

Your Lordships' second Resolution is, 'That 'every freeman of England, who apprehends 'himself to be injured, has a right to seek re- 'dress by action at law; And that the com- 'mencing and prosecuting an action at com- 'mon-law, against any person (not entitled 'to privilege of parliament) is no breach of 'the privilege of parliament.'

To which the Commons say that every freeman, and every subject of England, has a right to seek redress for an injury; but then such person must apply for that redress to the proper Court, which hath, by ancient laws and usage, the cognizance of such matters; For, should your lordships' Resolution be taken as an universal proposition, all distinction of the several courts, viz. common-law, equity, ecclesiastical, admiralty, and other courts, will be destroyed; and, in this confusion of jurisdiction, the high court of parliament is involved in your lordships Resolution.

However, the Commons conceive it no wonder your lordships should favour the universal proposition that all rights whatsoever are to be redressed by actions at law, when your lordships pretend to have the last resort in cases of judicature by Writs of Error; so that your lordships are, in this, only extending your own judicature under the colour of a regard and tenderness for the rights of the people and liberties of their persons.

The Commons are surprised to find your lordships assert, that the commencing and prosecuting an action against a person not entitled to privilege of parliament, is no breach of the privilege of parliament, since it is most certain, that to commence and prosecute an action which would bring any matter or cause solely cognizable in parliament, to the examination and determination of any other court, is more destructive to the privileges of parliament, than to commence and prosecute an action against a person only who is entitled to such privilege.

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That some matters and causes are solely cognizable in parliament, hath ever been allowed by the sage judges of law, and is evident from many precedents; and to bring such causes to the determination of other courts, strikes at the very foundation of all parliamentary jurisdiction, which is the only basis and support, even of that personal privilege to which the members of either House of Parliament are entitled; and consequently to commence and prosecute any action, whereby to draw such causes to the examination of any other courts, is equally a breach of the privilege of parliament, whether the defendant, against whom such action is brought, is entitled to the privilege of parliament, or not, which, besides the nature and reason of the thing, is fully evident from the constant usage of each House of Parliament, in committing for contempts only against their respective bodies, as appears from many precedents upon the Journals of both Houses.

Your Lordships' third Resolution is this, viz.

'That the House of Commons, in committing 'to Newgate, Daniel Horne, Henry Basse, 'and John Paton, jun. John Paty, and John 'Oviat, for commencing and prosecuting an 'action at common-law against the con- 'stables of Aylesbury, for not allowing their 'votes in election of members to serve in 'parliament, upon pretence, that their so 'doing was contrary to a declaration, a con- 'tempt of the jurisdiction, and a breach of 'the privilege of that House, have assumed to 'themselves alone a legislative authority, by 'pretending to attribute the force of a law to 'their declaration: have claimed a jurisdic- 'tion not warranted by the constitution, and 'have assumed a new privilege to which 'they can shew no title, by the laws and cus- 'toms of parliament; and have thereby, as 'far as in them lies, subjected the rights of 'Englishmen, and the freedom of their per- 'sons, to the arbitrary votes of the House of 'Commons.'

In answer to which, the Commons affirm, that the said commitment is justified by ancient precedents, and by the usage and customs of parliament which is the law of parliament, and the rule by which either house ought to govern their proceedings; and that the terms of assuming to themselves alone a legislative authority, of attributing the force of law to their declaration, of claiming a jurisdiction not warranted by the constitution, of assuming a new privilege, to which they can shew no title by the law and custom of parliament, and of arbitrary votes; are more applicable to this Resolution of your lordships, which hath no one precedent to justify it.

According to the known laws and usage of parliament, it is the sole right of the Commons of England, in parliament assembled, (except in cases otherwise provided for by act of parliament,) to examine and determine all matters relating to the right of election of their own members.

And, according to the known laws and usage of parliament, neither the qualification of any elector, nor the right of any person elected, is cognizable, or determinable elsewhere, than before the Commons of England in parliament assembled, excepting such cases as are especially provided for by act of parliament.

And were it otherwise, the mayors, bailiffs, and other officers, who are obliged to take the poll at elections, and make a return thereupon, would be exposed to multiplicity of actions, vexatious suits, and unsupportable expences; and such officers would be subjected to different independent jurisdictions, and inconsistent determinations, in the same case, without relief.

And the exercise of this power by the House of Commons, is warranted by a long, uncontested possession, and confirmed by the act that passed 7 & 8 Guil. 3, cap. 7, and the House of Commons must be owned to be the only jurisdiction that can allow the elector his vote and settle and establish the right of it; the last determination in that House being, by the act of parliament, declared to be the standing rule for the right of election in each respective place. Nor can any elector suffer either injury, or damage, by the officers denying his vote; for when the elector hath named the person he would have to represent him, his vote is effectually given, both as to his own right and privilege, and as it avails the candidate in his election; and is ever allowed, when it comes in question in the House of Commons, whether the officer had any regard to it or no.

In the beginning of the Parliament held 28 Eliz. Mr. Speaker acquaints the House, that he had received, by the Lord Chancellor, her majesty's pleasure; that she was sorry the House was troubled with the matter of determining the chusing and returning of knights for the county of Norfolk; that it was improper for the House to meddle in it, which was proper for the Lord Chancellor, whence the writs issued out, and whither they were returnable: that her majesty had appointed the Lord Chancellor to confer therein with the judges; and upon examining the same, to set down such course as to justice and right should appertain.

Nov. 9. A committee was appointed to examine and state the circumstances of the Return of the knights for the county of Norfolk. And on the Friday, Nov. 11, Mr. Cromwell reports the Case of the Norfolk election very largely, in which Report are these Resolutions. 1. "That the said Writ really was executed. 2. That it was a pernicious precedent that a new Writ should issue without the order of this House. 3. That the discussing, or judging of this, and such like differences, only belonged to the said House. 4. That though the Lord Chancellor and Judges are competent judges in their courts, they are not so in parliament. 5. That it should be entered in the Journal-Book of the House, that the first election is good; and that the knights

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then chosen were received and allowed as members of the House; not out of any respect the House had, or gave to the Lord Chancellor's Judgment therein passed, but merely by reason of the Resolution of the House itself, by which the said election had been approved. 6. That there should be no Message sent to the Lord Chancellor, not so much as to let him know what was done therein, because it was derogatory to the power and privilege of the said House.

It also appears, that sir Edmund Anderson, lord chief justice of the common-pleas, was acquainted, that the explanation and ordering of the cause appertained only to the censure of the House of Commons, not the Lord Chancellor and the Judges; and that they should take no notice of their having done any thing in it.

Accordingly Mr. Farmer and Mr. Gresham were received into the House, and took the oaths; being admitted only upon the censure of the House, not as allowed by the Lord Chancellor, or the Judges; and so ordered to be set down and entered by the clerk.

And this right of the Commons to determine their own elections, has never been disputed since the Case of sir Francis Goodwin, 1 Jac. 1, (See vol. 1, p. 998.) when the Lords would have enquired into the proceedings of the House of Commons upon his election; but the Commons then told their lordships, it did not stand with the honour of the House to give account to their lordships of any of their proceedings or doings.

And in the reasons of their proceedings in that Case, which they laid by Petition before the king, among other things, they say, They are a part of the body to make new laws; yet, for any matter or privileges of their House, they are and ever have been a court of themselves, of sufficient power to discern and determine without the Lords, as the Lords have always used to do theirs without them.

In which Reasons, as well as in their Apology afterwards to that prince, the House of Commons did, above 100 years since, so clearly, and with so much strength of reason, assert their right in the matter of the election of their members. The Commons think it their duty to resist all attempts whatsoever to invade them.

And upon this occasion, it may not be improper to cite the opinion the House of Commons had of the Judges intermeddling in matters of their elections, as they have delivered it in the aforesaid Apology, in these words, viz.

'Neither thought we that the Judges Opinions, (which yet, in due place, we greatly reverence, being delivered with the common law,) which extend only to inferior and standing courts, ought to bring any prejudice to this high court of parliament; whose power, being above the law, is not founded on the common laws, but they have their rights and privileges peculiar to themselves.'

When the earl of Shaftsbury was Lord Chancellor, writs were issued, during a prorogation of parliament, for electing members in the room of those that were dead: the king himself was so cautious, as to the regularity of this proceeding, and had so much regard to the privileges of the House of Commons, that at the next session of parliament, Feb. 5, 1672, he spoke to the Commons, from the throne, in these words: "One thing I forgot to mention, which happened during this prorogation; I did give orders for the issuing some Writs, for the election of members instead of those that are dead, that the House might be full at their meeting: and I am mistaken, if this be not according to former precedents. But I desire you will not fall to other business until you have examined that particular; and I doubt not but precedents will justify what is done; I am as careful of all your privileges as of my own prerogative."

Feb. 6, 1672. The House of Commons took that matter into consideration; and several precedents being cited, and the matter at large debated, and the general sense and opinion of the House being, "That, during the continuance of the high court of parliament, the right and power of issuing writs for electing members to serve in this House, in such places as are vacant, is in this House, who are the proper judges also of elections, and returns of their members."*

Thereupon it was resolved, "That all elections upon the writs issued since the last session are void, and that Mr. Speaker do issue out his warrant to the clerk of the crown, to make out new writs for those places." Which was done accordingly.

No other court than the House of Commons, hath ever had the determination of the elections, or any cognizance of such causes, except where by acts of parliament directed: and such an action as that against the late constables of Aylesbury, to bring the right of voting in an election, in question in the courts of law, is a new invention never heard of before; which (as new devices in the law are generally attended with inconveniences and absurdities) was plainly to subject the elections of all the members of the House of Commons to the determination of other courts.

This undoubted privilege and jurisdiction, the Commons think will warrant these commitments, if the late Declaration, (which is agreeable to, and cannot lessen their antient right,) had never been made.

For it is the antient and undoubted right of the House of Commons to commit for breach of privilege: and instances of their committing persons, not members of the House, for breach of privilege, and that to any of her majesty's prisons, are ancient, so many and so well known to your lordships, that the Commons think it needless to produce them.

And it being the privilege of the House of

* See vol. 4, p. 507.

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Commons, to have the sole examination and determination of all causes relating to their elections, as aforesaid: It follows, that any attempt to draw any such cases to the determination of any other court, is a breach of the privilege of the House of Commons; for which the person offending may be committed by the Commons.

And here we cannot but take notice of that unreasonable, as well as unnatural insinuation, whereby your lordships endeavour to separate the interest of the people from their representatives in parliament, who pretend to no privileges, but upon their account, and for their benefit; and are sorry to say, they are thus severely reflected on by your lordships, for no other reason, but for their interposing to preserve the rights of the people, and their liberties, from your lordships' arbitrary determinations.

Your Lordships' fourth Resolution is, 'That 'every Englishman, who is imprisoned by 'any authority whatsoever, has an undoubted 'right, by his agents, or friends, to apply 'for, and obtain a writ of Habeas Corpus, 'in order to procure his liberty by due 'course of law.'

The Commons do not deny that every Englishman, who is imprisoned, by any authority whatsoever, has an undoubted right to apply by his agents, or friends, in order to procure his liberty by due course of law, provided such application be made to the proper place, and in a proper manner; as, upon the commitments of the House of Commons, (which sometimes are not, as other commitments, in order to bring to trial; but are, in cases of breach of privilege and contempt, the proper punishment of the House of Commons,) the application ought to be to that House.

The Commons are so willing to allow and encourage every Englishman to apply, by his friends, or agents, to obtain a Writ of Habeas Corpus, in order to procure his liberty by due course of law, that they have not censured any person merely for applying for such Writ of Habeas Corpus, even in cases where by due process of law the prisoners cannot be discharged. For the Commons must observe, that, in many cases a prisoner cannot, upon a Writ of Habeas Corpus, obtain his liberty; as in cases of commitment in execution, or for contempt to any Court of record, or by virtue of mesne process, or the like: and in the act of Habeas Corpus, several cases are expressly excepted; and that no person, committed for any contempt, or breach of the privilege, by the House of Commons, can be discharged upon a Writ of Habeas Corpus, or by any other authority, than that of the House, during that session of parliament, is plain from the following precedents.

"May 23, 1 Jac. 1. Ordered, Jones the prisoner to be sent for hither, and to attend his discharge from the House."

That the prisoner committed by us, cannot be taken from us, and committed by any other.

In May 1675, the House of Commons having resolved, That there lay no appeal to the judicature of the Lords, from courts of equity; and that no member of the House should prosecute any appeal from any court of equity, before the House of Lords; serjeant Pemberton, serjeant Peck, sir John Churchill, and Charles Porter, esq. were committed to the custody of the serjeant of the House, for a Breach of privilege, in having been of counsel at the bar of the House of Lords, in the prosecution of a cause depending upon an appeal, wherein Mr. Dalmahoy, a member of the House of Commons, was concerned.

But the serjeant having been by force prevented from keeping them in custody, the Commons did, the 4th of June 1675, acquaint the Lords, at a Conference, as followeth, viz.—"We are further commanded to acquaint you, that the enlargement of the persons imprisoned by order of the House of Commons, by the gentleman usher of the black-rod; and the prohibition with threats, to all officers, and other persons whatsoever, not to receive or detain them, is an apparent breach of the rights and privileges of the House of Commons. And they have therefore caused them to be retaken into the custody of the serjeant at Arms, and have committed them to the Tower."

The said Counsel were afterwards committed to the Tower for a breach of privilege, and contempt of the authority of the House: and the House being informed, that the Lords had ordered Writs of Habeas Corpus for bringing the counsel to the bar of their House,

The Commons then passed the following Resolutions:

June 7. Resolved, *nem. con.* "That no person, committed for breach of privilege by order of this House, ought to be discharged, during the session of parliament, but by order, or warrant of this House. 2. That the lieutenant of the Tower, in receiving and detaining in custody sir John Churchill, serj. Peck, serj. Pemberton, and Mr. Porter, performed his duty according to law; and for so doing he shall have the assistance and protection of this House. 3. That the lieutenant of the Tower, in case he hath received, or shall receive any writ, warrant, order or commandment, to remove or deliver any person or persons committed for breach of privilege, by any order or warrant of this House, shall not make any return thereof or yield any obedience thereunto, before he hath first acquainted this House, and received their order and directions how to proceed therein."

Ordered, "That these Resolutions be immediately sent to the lieutenant of the Tower."

Afterwards the lieutenant of the Tower gave the House an account, that he had refused to deliver the counsel upon the Lords' Order, signified to him by the black-rod, because they were committed by this House; and that

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after he had received the Votes of this House, he had Writs of Habeas Corpus brought him, to bring the counsel to the House of Lords at ten o'clock the next morning, and humbly craved the direction of the House what to do.

Mr. Speaker intimated to him, he should forbear to return the writs.

And the House came to several other resolutions:

June 9. Resolved, *nem. con.* "1. That no commoner of England, committed by order or warrant of the House of Commons, for breach of privilege, or contempt of that House, ought without order of that House to be, by any Writ of Habeas Corpus, or other authority whatsoever, made to appear and answer, and do, and receive a determination in the House of Peers, during the session of parliament wherein such person was committed. 2. That the Order of the House of Peers, for the issuing out of Writs of Habeas Corpus concerning serjeant Peck, sir John Churchill, serjeant Pemberton and Mr. Charles Porter, is insufficient and illegal; for that it is general, and expresses no particular cause of privilege, and commands the King's great seal to be put to Writs not returnable before the said House of Peers. 3. That the Lord keeper be acquainted with these Resolutions, to the end that the said Writ of Habeas Corpus may be superseded, as contrary to the law and the privileges of this House. 4. That a message be sent to the Lords, to acquaint them, that serjeant Peck, sir John Churchill, serjeant Pemberton, and Mr. Charles Porter, were committed by order and warrant of this House, for breach of the privilege, and contempt of the authority of this House."

March 22, 1697. Charles Duncomb, esq. having been committed by order of this House, and afterwards discharged by order of the House of Lords, without the consent of this House,

"Resolved, That no person committed by this House can, during the same session, be discharged by any other authority whatsoever.—That the said Charles Duncomb be taken into the custody of the Serjeant at Arms attending this House."

These are some instances, among many others, that might be produced upon this occasion; and the last cannot but be particularly remembered by some noble lords that then sate in the House of Commons, and strenuously asserted this privilege of the Commons.

Your Lordships' fifth Resolution, viz. Resolved, 'That for the House of Commons to censure 'or punish any person for assisting a prisoner to procure a Writ of Habeas Corpus, or by vote, or otherwise, to deter 'men from soliciting, prosecuting, and pleading upon such Writ of Habeas Corpus, 'in behalf of such prisoner, is an attempt 'of dangerous consequence, a breach of the 'many good statutes provided for the liberty 'of the subject, and of pernicious example, 'by denying the necessary assistance to the 'prisoner, upon a commitment of the House 'of Commons, which has ever been allowed 'upon all commitments by any authority 'whatsoever.'

The Commons take this to be another instance of your lordships' breach of your own rule, your lordships being no judges of their privileges; though by this Resolution you seem to make a Judgment without having heard, and knowing what the Commons have to alledge for them.

This attempt, therefore, of your lordships is of dangerous consequence, tending to a breach of the good understanding between the two Houses, and of most pernicious example. The Commons late proceeding, in censuring and punishing the counsel that have pleaded upon the return of the Writs of Habeas Corpus, in behalf of the prisoners, if duly considered, is a great instance of the temper of the House of Commons: For this House did not interpose when the prisoners applied to the lord-keeper, and the judges to be bailed: and, had the lawyers shewn so much modesty, as to have acquiesced in the opinion of the lord-keeper, and all the judges, that these prisoners were not bailable by the statute of Habeas Corpus, the Commons had never taken any notice of it: But they would not rest satisfied without bringing on again this case; and the privileges of the Commons were, with great licentiousness of speech, denied, and insulted in public court; not with any hope or prospect of relief of the prisoners, (who in this whole proceeding have apparently been only the tools of some ill-designing persons, that are contriving every way to disturb the freedom of the Commons' elections) but in order to vent these new doctrines against the Commons of England, and with a design to overthrow their fundamental right. And, after so much inveteracy shewn to the Commons, they could do no less than declare the abettors, promoters, countenancers, or assisters, of a prosecution so carried on, to be guilty of conspiring to make a difference between the two Houses of parliament, to be disturbers of the peace of the kingdom; and to have endeavoured, as far as in them lay, to overthrow the rights and privileges of the Commons of England in parliament assembled.

And the Commons, in committing the lawyers, have only done that right to their body which your lordships have frequently practised, in cases of personal privilege, where any single member of your lordships' House is concerned.

Your Lordships' last Resolution, viz. 'That a 'Writ of Error is not a Writ of grace, but of 'right, and ought not to be denied to the 'subject, when duly applied for; (though at 'the request of either House of parliament) 'the denial thereof being an obstruction of 'justice, contrary to Magna Charta.'

The Commons shall not enter into any consideration, whether a Writ of Error is of right, or of grace: they conceiving it not material in

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this case, in which no Writ of Error lies, nor was ever any Writ of Error brought or attempted in the like case before; and the allowing it in such cases would not only subject all the privileges of the House of Commons, but the liberties of all the people of England, to the will and pleasure of the House of Lords.

And when your Lordships exercise of judicature upon Writs of Error is considered, how unaccountable is it in its foundation; how inconsistent is it with our constitution, which, in all other respects, is the wisest and happiest in the world, to suppose the last resort in judicature, and the legislative to be differently placed?

And, when it is considered how that usurpation, in hearing of appeals from courts of equity, so easily traced, though often denied and protested against, is still exercised, and almost every session of parliament extended, it is not to be wondered, that, after the success your lordships have had in those great advances upon our constitution, you should now at once make an attempt upon the whole frame of it, by drawing the choice of the Commons representatives to your determination; for that is a necessary consequence, from your lordships encouraging the late actions, and your countenancing a Writ of Error; which, if allowed upon such a proceeding, might as well be introduced upon all acts and proceedings of courts or magistrates of justice: And though the present instance has been brought on under the specious pretence of preserving liberty, it is obvious the same will as well hold to controul the bailing and discharging prisoners in all cases.

And the Commons cannot but see how your lordships are contriving, by all methods, to bring the determination of liberty and property, into the bottomless and insatiable gulph of your lordships' judicature, which would swallow up both the prerogatives of the crown, and the rights and liberties of the people; and which your lordships must give the Commons leave to say, they have the greater reason to dread, when they consider in what manner it has been exercised: The instances whereof they forbear, because they hope your lordships will reform; and they desire rather to compose the old, than to create any new differences.

Upon the whole, the Commons hope, that, upon due consideration of what they have laid before your lordships, you will be fully satisfied they have acted nothing in all these proceedings, but what they are sufficiently justified in from precedents, and the known laws and customs of parliament; and that your lordships have assumed and exercised judicature contrary to the known laws and customs of parliament, and tending to the overthrow of the rights and liberties of the people of England.

The next day the said Report was left with the Lords at a Conference; after which the Lords desired a Free Conference, which was agreed to.

The Serjeant at Arms, attending the House, having acquainted the House, that he had received two Writs of Habeas Corpus under the great seal of England, to bring before the lord-keeper the bodies of James Mountague, esq.; and Alexander Denton, esq.; (who are committed to his custody by warrants from the Speaker of this House for a breach of privilege.)

The House again assumed the consideration of that matter: And after Debate,

Resolved, "That no Commoner of England, committed by the House of Commons for breach of privilege, or contempt of that House, ought to be, by any Writ of Habeas Corpus, made to appear in any other place, or before any other judicature, during that session of parliament wherein such person was so committed.

"That the Serjeant at Arms attending this House, do make no return of, or yield any obedience to the said Writs of Habeas Corpus; and, for such his refusal, that he have the protection of the House of Commons.

"That the Lord-Keeper be acquainted with the said Resolutions, to the end, that the said Writs of Habeas Corpus may be superseded, as contrary to law, and the privileges of this House."

Ordered, "That the clerk of this House do acquaint the Lord-Keeper of the great seal of England with the said Resolutions."

Free Conference.] March 13th. The Report of what passed at the Free Conference was delivered by Mr. Bromley, as follows:

That the Lords who appeared as managers, and spoke at this Free Conference, were, the earl of Sunderland, the lord Ferrers, the bishop of Salisbury, the lord Halifax, the lord Wharton and the duke of Devonshire Lord Steward.

That the Free Conference was begun by the managers for the Lords, who said, this Conference was desired to maintain a good correspondence between the two Houses, which was never more necessary than at this time.

That the delivering Resolutions at their first Conference was parliamentary; and instanced the Resolutions 3 Car. 1, which produced the Petition of Right.

That the Lords look upon the Commons to be a great part of the constitution, which cannot be preserved but by doing right to both Houses.

That every part of the body politic, as well as the body natural, ought to be kept within due bounds; an excess in any member will weaken the whole.

That this Constitution is the wonder of the world, and glory of this nation; it is founded upon liberty and property: and the House of Commons hath been a great fence and bulwark of liberty.

That the Lords' Resolutions are very well founded, and justified by the laws of the land, as is their judicature in this case.

That it was proper for them to receive the Petitions, and make these Resolutions thereupon.

That the Lords are the great court of judica-

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ture; and when the courts below have differed in opinion, there has been resort to the Lords for their Judgment, as in the Case of Kindred of half-blood claiming shares of intestates estates.

That when such a Complaint comes before the Lords, they ought to give their opinion as to the law of the land; and that was the foundation of their present Resolutions.

1. That the first Resolution was, in effect, agreed to by the Commons, though they go off to foreign matters, of which the Lords take no notice.

That the law of the land can be altered only by the legislature.

2. That the second Resolution asserts the subjects redress by action at law, &c.

That all constitutions have reckoned this their safety; that every man, from the highest to the lowest, hath the protection of the law.

That, according to our constitution, the subject may contest his right with the crown, and upon equal terms, with that respect which is due.

That this Resolution only asserts the right, does not state the respective Courts, where the redress is to be had: If the party mistakes the Court, he is punished by costs of suit.

The term of 'privileged causes' is new, and the distinction unknown.

3. To support the said Resolution, it was urged, That the breach of privilege was not well grounded.

That it belongs to the crown to make Declarations; the Commons did indeed make Ordinances; and when their prince was murdered, they came to Declarations.

That a law, without promulgation, cannot have force to make an offence.

The liberty of men's persons is the greatest privilege, and not to be taken away, but in known cases; the invading of it has shook the best constitutions.

That the taking away the liberty of one mean person, once endangered the government of Rome.

That both Houses may commit for breach of privilege, but cannot declare any thing to be a privilege, without good grounds, nor consequently make any thing a contempt, that is not known to be so.

That Commitments, or Censures, have not been usual upon actions at law, though such actions have brought the proceedings or privileges of either House in question.

That, in the case of Freedom of Speech, which is the greatest privilege, there was a Judgment in king Charles the 1st's reign, in the heat of those things, against some members, for Speeches in parliament: this the Commons first condemned; and then by Conference brought it before the Lords, who came to a Resolution, that it was erroneous, and desired the lord Hollis to bring his Writ of Error; and thereupon it was reversed by the Lords, in the time of Charles the 2nd; which shews the care the Lords had of the Commons privileges.

That in Soame and Barnardiston's Case, the Commons did not concern themselves, only in support of the action, when in 1678, they examined the judgment of reversals as a grievance.

That the Lords had not interposed in any suits, which concerned the proceedings of their House.

That the earl of Banbury (as he was called) was, by the Lords, adjudged to be no peer: This was examined in the King's Bench, where, in abatement of an indictment of murder against him, as Charles Knowles, esq. he pleaded his title of an Earl; and in avoidance of that, the Order of the Lords was replied, and was examined by the Court, and disallowed.

That the late bishop of St. David's was prosecuted in the spiritual Court, and deprived, though a member of that House; and the Lords did not interpose.

That it is the wisdom of all governments, to have the law open; and that is the difference between a legal and an arbitrary government.

That the Lords do not meddle with the Commons' right of determining their own elections; they have a settled possession of it, which is a right: But if all the rights of subjects concerned in those elections are to be determined there, that will bring all questions of Freehold, and the allowance of all Charters, and all liberty and property before them.

That a freeholder of 40s. per annum has a right of inheritance, to which he is born; and if his Vote is denied, he is damnified, and loses the credit of his Vote; and if he shall only come to the House of Commons, they can neither give him damages nor costs of suit.

That a freehold cannot be determined by any Court which cannot give an Oath.

That the Precedents produced concern only the right of determining elections in general.

And an action by an elector, for his right of Voting, does not avoid the election.

4. To maintain the fourth Resolution, they said, That it may be lawful for a man to apply for his liberty, when he cannot have it.

That the proceeding in 1675, produced as a precedent in this Case, were upon a matter contested between the two Houses, and resolved differently in the Lords House: Topham and the lieutenant of the Tower were both turned out; and the ferment was so high, that the parliament was prorogued, and soon after dissolved.

The fifth Resolution is a consequence of the fourth:

That the commitment of the lawyers was not for licentious speech, as was insinuated at the last Conference, but for pleading upon the return of the Writs of Habeas Corpus.

That it is the particular character of that odious Court called the Inquisition, that no body dares appear for, or resort to a person imprisoned there, but he is left to the mercy of that Court.

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The lawyers are not to be answerable for every thing they argue; they are to do their duty for their clients, and the Court is to judge of it.

6. The Commons declining the last Resolution is an agreeing to it, though not so parliamentary as it would have been to have agreed to it directly.

That the Lords are the only proper judges, whether the Writ of Error lies before them.

To these Arguments the Managers for the Commons answered:

That they agreed the necessity of a good correspondence between the two Houses, especially at this time of common danger: and that the Commons had fully shewn their desire to maintain that good correspondence, by condescending to meet their lordships at this free Conference, although their ancient and fundamental privileges had been called in question, and denied by their lordships, and that in an extraordinary and very unparliamentary manner.

That the delivery of Resolutions is so far from being the only method of Conferences, that the more usual method has been to offer reasons, without Resolutions; and it would be very difficult to give any instance (before this) of either House delivering positive Resolutions at a Conference, without the reasons, at the same time, to support them, and that induce them to make such Resolutions.

1. That the Commons' Answer to the Lords' first Resolution, is not foreign to the subject-matter of the Conference: because the Commons apprehended the subject-matter to be their lordships denying the privileges of the Commons, on the one hand, and their extending their own judicature beyond its proper limits, on the other: and therefore the Commons could not but take notice, how far their lordships had transgressed in the exercise of an unwarrantable judicature, in contradiction to that very rule they had laid down for the test of the proceedings of the Commons, and by which the Commons had strictly governed themselves.

That though the Commons cannot create new privileges; yet, in Coke's 13 Reports, fo. 63. it is said, the privilege of parliament, either of the upper House, or of the House of Commons, belongs to the determination or decision only of the court of parliament; for every court hath a right to adjudge their own privileges, according to the book of Ed. 4, sir John Paston's Case.

2. To their lordships Arguments for their second Resolution your managers answered;

That every person injured, hath a right to seek redress; but then that redress must be sought in the place where the matter is properly cognizable.

3. To what the Lords offered upon the third Resolution, your managers answered;

That matters of election do not belong to the courts below, but only to the House of Commons, which hath been in long possession of them: that there was an act of parliament made in the time of king Henry the 6th, to give an action for a false return of members to serve in parliament, because no such action lay at Common-Law, it relating to elections.

That double returns not being within that statute, no action lay in the courts of common-law, for making any double return, till the statute 7 and 8 William 3.

That, besides the instances given, in the Answers the Commons gave to the Lords Resolutions, at the last Conference, this distinction as to privileged cases, is fully and undeniably warranted by the statute made in the first year of king William and queen Mary, entitled, 'An Act declaring the Rights and Liberties of 'the subject, and settling the succession of the 'Crown;' where, among other endeavours of the late king James, to subvert and extirpate the laws and liberties of the kingdom, these are mentioned, 'by violating the freedom of 'election of members to serve in parliament, 'and prosecutions in the court of King's-bench, 'for matters and causes only cognizable in par-'liament.'

Besides, that there are privileged cases as well as privileged persons appears from hence; a prohibition, and afterwards attachment, lies, for suing in the spiritual court for a temporal cause determinable in the temporal court. There are divers laws within this realm, of which the common-law is but one, as appears in Coke's 1 Ins. fo. 2, b, where he mentions 'Lex 'et consuetudo parliamenti, et lex communis,' as distinct laws.

As there are several laws, so there are several courts and jurisdictions, and several causes proper for those several laws and several jurisdictions: of these the high court of parliament is the first: 'Lex et consuetudo parliamenti' is a great branch of the law of England: and many causes are to be determined only by that law, as appears in the Inst. fo. 23.

With such causes as are in their nature parliamentary, and to be determined by the law of parliament, the common-law, and common-law judges have nothing to do; as further appears, 4 Inst. fo. 14, 15. where the expressions are very suitable to the present controversies.

That the persons assisting in the prosecution of such actions, after a prohibition by the Commons, for that such causes belong to their jurisdiction, the committing them for the breach of their privileges in that particular, is no more than is done by the common-law courts for a like contempt, when persons will sue, after a prohibition, to the spiritual courts: and the Commons' usual way to defend their privileges against such invasions, has been by committing the tools and instruments thereof.

It is a fundamental maxim of the law and custom of parliament, which is the highest and noblest part of the law of England, and particularly adapted to the preservation of the liber-

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ties of this kingdom, that the two Houses are independent of one another, and sole judges of their rights and privileges: That their lordships did admit, the Commons have a privilege to judge of the rights of their own elections, to one intent, but not to another: but if the Commons have such a privilege to one intent, they must be judges of it to all intents and purposes whatsoever; and, being sole judges thereof, their judgment cannot be legally called in question, either by writs of Habeas Corpus, Writs of Error, or otherwise, in any other court; and consequently the proceedings in Westminster-hall, and in the House of Peers, and the Judgment given there, are all null and void, *et coram non judice*.

The Commons' commitment for commencing these actions, is no more than what they and their predecessors have in all times practised, in cases of breach of privilege.

4. In answer to what the Lords had offered upon the fourth Resolution, your managers insisted, that application of friends for the liberty of any person imprisoned, ought to be in a proper place, and in a proper manner, which in this case ought to have been only to the House of Commons, and by the petitions of the persons they had committed.

That the proceedings in 1675, were so well grounded, that they must be precedents to the Commons to follow at all times upon the like occasions.

5. To what the Lords offered upon the fifth Resolution, your managers answered:

The licentiousness of speech used by the lawyers, was only mentioned among other particulars of the provocations they gave the House of Commons; but they were committed for pleading upon the returns of the Writs of Habeas Corpus, in behalf of the prisoners committed by the House of Commons, which the Commons, who are the only judges of their own privileges, take to be a great breach of the privilege of their House.

6. To the last Resolution your managers insisted, that no Writ of Error lies in that case; and that there may be cases wherein no Writ of Error lies, was their lordships' opinion in the Case of the late bishop of St. David's, who brought his Writ of Error upon the courts not granting him a prohibition.

The Case of sir Thomas Armstrong, mentioned by their lordships, was particular, in that the Commons then apprehended he was entitled to a Writ of Error, within the meaning of the statute of Edw. 6.

Your managers further urged the novelty of the action in the Case of Ashby and White, of which no footsteps can be found in any book of the law, or in any record, although we have faithful reports of all memorable Cases for 400 years past; and the occasion of such an action must frequently have happened.

The Lords themselves, when they had no design upon the privileges of the Commons, were of opinion, in the Case of sir Samuel Barnardiston, in the first year of the reign of king William, that no such action lay; and there is no reason can be offered to maintain this action, but held more strongly in the Case of sir Samuel Barnardiston, as damages, costs, &c. And it is an absurd distinction to say, that in this case the right of election cannot come in question, because the determining of the right of the electors doth generally determine the right of the elected; and almost all controverted elections depend upon the qualifications of the electors.

That the Commons had shewn such a disposition to maintain a good correspondence with their lordships, though their lordships in the Case of Ashby and White, had, contrary to the judgment of the courts below, allowed the action, upon which the plaintiff had taken out execution, and levied the money; that the Commons took no notice of it, and were willing to let the matter fall, which might occasion any contest in this time of public danger: But when other actions of the like nature were still commenced and prosecuted, whereby all elections would be brought to the determination of the Lords, or, at least, in time so influenced, as that the Lords would in effect chuse the Commons, and thereby the independency of the two Houses would be destroyed, which is the great safety of the constitution; then it concerned the Commons, who are the representatives of the people, to oppose what would be so fatal to our constitution.

The bringing Writs of Habeas Corpus upon the commitments of the Commons, and a Writ of Error thereupon before the Lords, would bring all the privileges of the Commons to be determined by the judges, and afterwards by the Lords, upon such Writs of Error.

Nay, such Writs of Error upon every Habeas Corpus, would bring the liberty of every commoner in England, to the arbitrary disposition of the House of Lords.

And if a Writ of Error cannot be denied in any case, and the Lords alone are to judge whether the case be proper for a Writ of Error, then all the queen's revenue, all her prerogatives, and all the lives and liberties of the people of England, will be in the hands of the Lords, for every felon, burglar, and traitor, will be entitled to a Writ of Error before the Lords; and they will have even power of life and death.

And by Writs of Error and Appeals, as already exercised, they will have all our properties; by such new-invented actions they will have all our elections; and by such Writs of Habeas Corpus, and Writs of Error thereupon, they will have all our privileges, liberties, and even lives, at their determination: who determine by vote, with their doors shut, and it is not certainly known who it is that hurts you.—The novelty of those things, and the infinite consequences of them, is the greatest argument in law, that they are not of right.

The Commons are not contending for a small

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thing, but for their all: Especially since the Lords have found out a way to distress the government, by detaining the money given by the Commons, which must come last to them, because the Money-Bills must begin with the commoners; and if by that means they can extort Writs of Error where they never were heard of, the Commons must commit the persons employed in all such innovations, or else they must lose, by such contrivances, all that they have.

In the Case of Denzil Holles, sir John Elliot, &c. in 1667, the Commons declared the Judgment given in 5 Car. 1, to be an illegal Judgment, and against the privilege of parliament; and this they did of themselves, before they acquainted the Lords therewith.

Afterwards, because it concerned the Lords as well as the Commons, they imparted their Resolutions, to the Lords, who concurred with the Commons; and the Writ of Error, which was afterwards brought at the desire and instance of the Lords, and not at all by the desire of the Commons, they rested upon their own Resolution, that it was an illegal Judgment.

The Lords, by way of Reply, said further, that this is a cause of liberty and property, and judicial proceedings, which the Commons had endeavoured to stop.

That the Conference, therefore, asked by the Lords, upon the fundamental rights and liberties, was proper.

That they are the same terms the Commons used, 3 Car. when their liberties were attacked.

That the true method of conference is not by way of question and answer, but by Resolutions; which are not so binding, but if the Lords are convinced by arguments, they may retract them.

That the Lords, sure, may regularly take notice of this printed Paper, when it contains such declaration, as all persons are bound to take notice of at the peril of commitment.

That the right of the House of Commons to determine their own elections is not in question, or intended to be changed; but the two precedents produced to support them are very much mistaken.

That the Case of sir Francis Goodwin is not fairly stated, the word 'Order' being omitted in the Commons' Answer to the Lords' Message, relating to the Commons' proceedings in this case; which refers to a particular Order of the House of Commons, they having before determined that election. That it is not taken notice that the Lords went with the Commons to the king, and were mediators; and that, at the last, a new Writ issued for a new election.

That, in the stating the precedent 28 Eliz. the Commons have not taken notice, that the election was in that case determined by the Judges.

That the Commons did not confine their Resolution to Armstrong's Case; but it is general and absolute, that a Writ of Error in felony or treason, is of right and not of grace.

That by the Writ of Error brought in the late bishop of St. David's case, upon the denial of a Prohibition, and disallowed by the Lords, it appears, when a record comes into [illegible] them, they are so just as to dismiss it.

That, instead of proving the law, the consequences are urged, which is not [illegible]

That the question is, whether [illegible] bound to grant a Writ of Error? [illegible] will be hard for any body of men to [illegible] with the crown, and stop it, to hinder that [illegible], which, by the opinion of the Judges, she ought to give.

She is obliged too, by Magna Charta: 'Nulli 'negabimus, nulli deferemus, justitiam.'

That whether a Writ of Error lies or not, will afterwards be proper for the Judgment of this Court, as it is of any other Court where a Writ of Error is returnable.

That the Commons are very safe, and may depend the Lords will be as tender of their privileges as of their own.

That whatever privileges accrue to the Commons, will accrue to the Lords also: If the commitments of the Commons are free from the cognizance of the courts below, those of the Lords will be so too.

That 3 Car. the Commons maintained, that the measure of persons being bailable, is not from the authority which committed, but from the cause of commitment.

Your Managers further observed, this subject matter was scarce ever in conference before, between the Lords and Commons, and will seem strange to posterity.

That the Lords' concern for liberty and property cannot be equal with that of the Commons; for the Lords' liberty is better fenced, and consequently their property too, than that of the Commons.

The Lords are less interested in the event of this Conference than the Commons, who are the trustees of those who sent them, and are bound in duty and interest to preserve their liberty and property; and having but a triennial duration, which is at this time near expiring, it is not to be imagined they will infringe what they are entrusted with, and so much concerned to maintain; and that so notoriously, that the Lords should complain, who are much less concerned, but more to be feared, as their designs as well as honour may be hereditary.

At the first Conference, six Resolutions were delivered, as matters of undoubted truth and law. And the proceedings of the Commons are to be tried by these rules, though they were no parties to the making them.

1. The first is not to be excepted against; only is an insinuation, as if the Commons had practised the contrary, which they are not conscious of.

2. To the second, there are many injuries for which no action at law is allowed; as if a judge gives a wrong judgment, the redress by Writ of Error, is no satisfaction for the damage.

So for other acts of a judge, or court of jus-

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tice, as denying a Writ of Habeas Corpus, or bail, no action lies, but upon the late statute.

That their lordships, not making any distinction between matters and causes, which were exempt from the cognizance of the common law courts, as being solely cognizable in parliament, and causes which were exempt only in respect of the persons sued, being entitled to privilege of parliament, seems to be the occasion of the mistakes their lordships have entertained, in relation to the proceedings of the Commons; that the House of Commons is a court of judicature in many respects; and, as such, hath as well as other courts, causes proper and peculiar to its jurisdiction.

That the law books, and particularly the lord Coke, speak of matters of parliament which are not to be determined by the common law, but according to the law and usage of parliament.

That all matters moved or done in parliament, must be questioned and determined there, and not elsewhere, has been heretofore asserted by the House of Commons, as their ancient and undoubted right, and has been allowed both by the judges of law, and by their lordships. And when the judges of the King's Bench, in the fifth year of king Charles the First, upon an information against sir John Elliot, Mr. Hollis, and others, held, that matters done in the House of Commons, if not done in a parliamentary way, might be questioned elsewhere; that judgment was afterwards reversed in parliament.

That their lordships allowed all matters relating to elections, ought to be determined solely by the Commons: and though their lordships attempted to make a distinction between the right of elections, and the right of electors, yet their lordships cannot find room for such a distinction, unless they would say, the right and qualification of the electors was a matter not relating to elections.

That by the Parliament Rolls, 11 Rich. 2. it appears a petition was exhibited by parliament, and allowed by the king, that the liberties and privileges of parliament should be discussed by the parliament, and not by any other courts, nor by common or civil law; and, therefore, when the judges have been asked their opinions in matters of parliament, they have answered, that the privileges of parliament ought to be determined there, and not by any other; as they did in the case of Thorp, Speaker of the House of Commons, 31 H. 6.

That these matters are not exempt from the determination of other courts, in respect of the persons sued; for then they might be determined there after the time of privilege was expired; whereas it is evident, that such matters and causes cannot be determined, in any other court than that of the parliament, after the expiration of the time of privilege, any more than before.

That these matters are determinable in parliament, although the persons prosecuted are not entitled to the privilege of parliament, as appears by many instances, particularly by that of the mayor of Westbury, in the 8th year of Eliz. who, for taking 4*l.* to get a person elected a burgess for that borough, was fined and imprisoned by the House of Commons, although he was not a person entitled to the privilege of parliament.

That it may be as well said, that an action is maintainable for refusing any of the Lords a right of precedency in parliament; yet it cannot be imagined the House of Peers would be content the same should be brought in question, in any of the courts of law, and decided by a Jury of Commoners.

But the same arguments will hold for maintaining such an action, to recover damage for refusing precedency to him that hath right to it, as for maintaining an action to recover damages, for refusing to take down upon the poll the vote of an elector: For it may with equal reason be said in both causes, that the plaintiff hath a right, that the defendant refused him that right, that such refusal is an injury, and consequently ought to be repaired in damages.

3. As to the third Resolution, the Commons are not accountable to the House of Lords, or any other court, for what they did in that matter.

Their privileges being rights peculiar to that House, what is their privilege, and the breach of it, is only examinable, and to be judged by themselves.

That the courts of Westminster-hall have that deference for each others judgment, that, in commitments for contempt or misdemeanour, which are frequent every term, another court, though superior, will not redress the prisoner by Habeas Corpus, or otherwise; but he must address to the court which committed him, much less can an inferior court do it.

The House of Commons therefore expected the same deference from those courts which they pay each other; and also from the Lords' House what is due to a co-ordinate jurisdiction: The Commons taking themselves to be superior to any court in Westminster-hall, and not allowing any court in this government to be their superior, no more than their predecessors have done.

The Commons do not intend by their Declaration to make a new law, but barely declare what the law was, and prohibit any person to act contrary.

The term Declaration is not peculiar to the prince, but is a familiar term in Westminster-hall.

The commitment was not for acting contrary to the vote of the Commons, but for acting contrary to law, after the law was notified to them by that Declaration, and they thereby prohibited to proceed in that course.

To set this in a true light, if a man sues in the admiralty, or ecclesiastical court, for a matter properly cognizable at common-law, the party shall not indeed be committed for commencing that suit; but if the defendant in such suit obtains a prohibition, which declares what the law is, and gives the plaintiff

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notice that his suit is contrary to law, and therefore prohibits him to proceed any further therein; if he does proceed, an attachment will issue to arrest him for breach of prohibition, as it is said, though in truth, it is for acting contrary to law, after he had been admonished what the same was.

Now there is no difference between the declaration complained of, and the prohibition mentioned, but in the name only; both declare what the law is; both admonish the person offending, and both command him not to proceed; so that there is as much reason to complain of a prohibition at law, as of the declaration mentioned in the Resolution.

4. To the fourth Resolution, if it respects the prisoners committed by the Commons, they apprehend the application ought to be to their House.

5. For the fifth Resolution, the Commons have the same exceptions to it as they had to the third Resolution: For if counsel, attorneys, or solicitors, are prohibited, and act contrary to the order of any court, they are guilty of a contempt of that court, and for such contempt they may be taken into custody.

To their lordships' last Resolution, it is very true, that in the last reign the House of Commons did so resolve in the cause of sir Thomas Armstrong, as hath been cited, which case was, that sir Thomas Armstrong was indicted for high-treason, and afterwards fled beyond sea, where he was at the time of the exigent awarded against him; and afterwards, within a year after the exigent awarded, he was brought prisoner into England, and would have a Writ of Error, but it was denied him; upon which the House of Commons made the Resolution mentioned. At the common-law, if a person had been guilty of a capital, or any other crime, and had been in England at the time of the indictment found against him, but was beyond sea at the time of the exigent awarded, and thereupon an outlawry was had, the person outlawed might any time afterwards have reversed that outlawry, for that Error in Fact; the practice whereupon was, that persons guilty of treason, would fly beyond sea, and there stay till the witnesses against them were dead, and then return into England, reverse their outlawry, and become safe. To remedy which mischief, was the statute of Edw. 6, made, which takes away the Error in Treason, unless the person outlawed rendered himself to the Chief-Justice within a year after the outlawry. Within which exception was the case of sir Thomas Armstrong, as the Commons apprehended, which was the reason of the Resolution: And in other cases the practice since that Resolution has been otherwise; for in the Case of Salisbury, who was attainted of Felony for counterfeiting the stamps, a Writ of Error was denied him, though he petitioned for the same. But if this Resolution is aimed at a Writ of Error for denying a Habeas Corpus, or denying to bail, or discharge persons committed by the House of Commons, this Resolution is very wide from the purpose; for, whether a Writ of Error be a Writ of Right, or a Writ of Grace, in all cases where a Writ of Error does lie, yet their lordships' Resolution cannot be carried so far as to make a Writ of Error lie, in a case where there is no judgment pronounced, as there never is in the case of an Habeas Corpus, or in any thing relating thereunto: for if a Habeas Corpus is denied, or if granted, and the persons thereupon denied to be bailed or discharged, this is no such judgment, but that the same, or any other court, may grant an Habeas Corpus, and discharge or bail the person committed.

Your Managers added, The Commons hoped it would be no difficulty to convince the Lords, that these Resolutions were both unreasonable and unparliamentary, and they have not been much justified; and certainly it cannot be parliamentary, or reasonable, for the Lords to condemn the Commons in the case of their own privileges, when the Lords are no judges of them: and therefore, though the Commons have now entered into this debate with their lordships, it was never meant to subject their proceedings to the Lords' examination, but only to satisfy the Lords, and all mankind, that the Commons have not done an extravagant thing. That a noble lord said, they did not intend to interrupt the Commons in the determination of their elections. The Commons are beholden to them for that; for otherwise, when they thought fit, they might as well meddle with that, as several other things they have of late taken upon them.

The Commons hope their lordships will consider what the constitution is, and think it not reasonable, that any part should exceed its due bounds: but there have been great invasions made upon it by their lordships, and some instances of that kind have been delivered at the last Conference; and it would be easy to shew, that the judicature which of late has been assumed by the Lords, is not consistent with the constitution.

A Writ of Error in this case, the Commons take to be such: and the Commons would be blameable for admitting of it, since no such Writ does lie: and the Commons have done well in advising her majesty not to grant it, since it is against the law: the Commons find no such Writ ever brought.

It is said their lordships will do right to the Commons upon it; but the Commons can never think it reasonable to trust the liberties of the people of England to their lordships' pleasure, for they that have power to do right, have power to do wrong; and power is so often abused, that the Commons can never suffer the Lords to assume this new power to themselves. Were we certain power could never be abused, an arbitrary, and what is called a tyrannical power, would be the best in the world, for that, not being tied to any rule, would apply the remedies proper in all cases; but since this is not to be expected, the Commons were in the

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right to stop this Writ of Error: they find one thing has brought on another; and therefore, for the future, shall oppose any further progress of this nature.

It was further urged by the Lords, in Reply, that if such a Writ of Error wants a precedent, it is a new sort of imprisonment has occasioned this.

That the consequences urged by gentlemen cannot avail.

That if the law be so, nothing but the legislature can alter it.

That it is said, the Lords cannot judge of the privilege of the House of Commons. They do not say they can; there may be no occasion; but from precedents it appears they have done it by Writ of Error, and at the desire of the Commons.

That not only the Lords, but all mankind will judge of what is not their privileges, if they claim that which neither sense, nor reason, nor law will justify.

That if the Commons say, to bring an action at law against persons not privileged is a breach of privilege, all mankind will say it is not.

That this comes upon a Petition of five men to the Lords, setting forth, they have been imprisoned by the Commons for bringing their actions against the constables of Aylesbury, and for suing out writs of Habeas Corpus, and are at least delayed in a Writ of Error.

The question lies in a narrow compass; Whether they have a right to bring their actions at law; if so, it is injustice to imprison them for doing it;

A hardship to deny them writs of Habeas Corpus, and a greater to imprison their counsel and agents for endeavouring to procure them their liberty.

That their right is settled by a judgment of law, which will ever remain, till altered by the legislature.

That a Declaration of one House, or both Houses, cannot alter the law.

That the Lords intend not to disturb the Commons in the right of judging, only as to their own members.

That the material difference is between judging of the right of the electors, and the right of the elected.

And there may be cases, as here, where the election is not in question, and yet the electors receive great damage in being denied their vote.

That the right of freehold is a man's birthright, and cannot be taken from him but by law.

That if any person be injured by any officer whatsoever, he may, by law, seek for reparation: otherwise, there is a right without a remedy, which is no right at all.

In answer to this, your Managers said, This action is of the first impression; and it is a good argument no such action lies, because none was ever brought before, and especially, because occasions cannot be presumed to have been wanting in every new election of members to serve in parliament, nay many more justifiable than in the late Case of Ashby and White, where the plaintiff was a person likely to become chargeable to the parish, and therefore removed by the order of two justices: and this, by the way, brings in mind the printed Case of Ashby and White, from the Report of the Lords' Committees, where it is given in answer, no such action before was brought, that few had such a true English spirit as that plaintiff, though it is said he then was a cobler, and formerly had been an ostler; and his breast, it seems, was first warmed with this true English spirit, which was rather a spirit of faction.

And it is worthy observation, that in this case, the costs and charges sustained by Ashby, or somebody for him, could not be less than 100*l.* more than the costs and damages he recovered; so that it was *infelix victoria*, and no benefit, but a loss to him. A noble lord was pleased to say further, that though he would not pretend to judge of the Commons privileges, yet he might of what was not their privileges. That argument appears very strange, since the Commons say the matter in question is their privilege; and if the Lords saying it is not, is sufficient to divest them of it, the same method may divest the Commons of all the rest. The Commons are not going about to create new privileges, but continue the possession of those which their predecessors ever enjoyed and exercised; and which they think neither this or any other future House of Commons, can ever depart from.

The Lords afterwards receded from the generality of their second and last Resolutions.

They said, the second, so far as that every one who apprehends himself injured has a right to seek redress, was general, but what followed of an action at law, was confined to the present case.

So the sixth, though it was general, was to be understood in this particular case.

As to what was said, that none but a superior court can take cognizance of what another does, it was answered, That when the earl of Shaftsbury was committed by the House of Lords for a contempt, he was brought by a Habeas Corpus to the Court of King's-bench; This was complained of to the House of Lords, but they passed it over, being of opinion a man might seek for liberty where he would.

The Lords' judicature is too sacred a thing to be touched.

Your Managers thereupon returned, They wished your lordships had said that at the beginning, it would have saved much time and shortened the debates; for the Commons think their privileges as sacred as the Lords can their Judicature. Your Managers proceeded to say,

That as nothing offered at this Conference, or the last, was meant to submit or lessen the privileges of the Commons; much less had any thing in the precedents, in the time of queen Elizabeth and James 1, produced at the last Conference, any tendency that way.

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And, in answer to some objections made to those precedents, your Managers said, the Commons did not take upon them to set forth the whole proceedings, which are very long; but though they had not their books there to make out the quotations, can depend upon what they have stated to be true.

In the precedent of sir Francis Goodwin's case, cited by the Commons, there are no omissions that, duly considered, can make that case less to the advantage of the Commons, on this occasion; for if the word Order be omitted, and taking the answer to have been, that they did conceive it did not stand with the honour and order of the House, to give account of any of their proceedings or doings, that will little alter the case, since it is plain, from the entry on the Journal, the Commons in returning this answer, had regard chiefly to the precedent then quoted, 27 Eliz. when the Commons refused to give the Lords any reasons (though the Lords desired them) for the rejecting, at the first reading, a bill the Lords had sent down to the Commons: The Reasons for the Commons proceedings in this case were prepared by themselves, which they did communicate to the Lords; but the Lords were not to add or diminish: And though some Lords were present at the Commons delivering their reasons, there is a material distinction, upon the Commons Journals, of those Lords being present as Lords of the Council, and not as Lords of the parliament.

And the noble Lord who took notice of the Commons in the stating of this case, and pretended to state it fully and truly himself, omitted, that the new writ was ordered to issue at the request of sir Francis Goodwin, by his letter; which, for the satisfaction of the House, was read and entered on the Journal, before any question for the new election was made.

In that of the 28th of Eliz. the Commons did not, at the last Conference, omit to take notice of the judges' determination; but it is justly stated as a matter the Commons, in the examination of that case, were informed of, but did not respect; the Commons then asserting themselves to have the sole determination of that case.

Your Managers further urged, Though the Commons do not submit their privileges, it may be proper to ascertain what they claim, with the reasons why they are at this time the more concerned to oppose all attempts upon them.

They do agree the right of voting may be grounded upon freehold, charter, or prescription; and they do not pretend to draw them from courts of common-law, when, as such, they come there originally, immediately, and directly in question.

But it is as plain, when the right of voting in an election is the thing originally, immediately and directly in question, that is solely cognizable in the House of Commons, whose determination is the standing rule for all places: And if the elections only were examinable by the Commons, and every elector's vote was examinable elsewhere, the consequence of such different determinations is fully stated, as delivered at the last Conference; which common and known difference of coming originally, or collaterally and incidentally in question, will answer the case of the earl of Banbury, where the Order of the House of Lords came only incidentally in question, upon an indictment for murder; nor is there any injury in this case that requires an action, much less damages: The elector's vote, upon every election, depends upon its own true foundation, as the elector then stands entitled by freehold, charter, or prescription, whether he was entitled, or was allowed, or refused at any former election, or not.

Nor is damage always necessary to a remedy; that which is specific and gives the right, is the most noble and compleat remedy; Damages being only secondary, substituted by way of recompence where the other cannot be had, as appears by many instances in the law.

The Commons had great reason to assert their ancient right, and withstand these late and new attempts upon the constitution, which in every step have been unprecedented; viz. the action, the Habeas Corpus, and the Writ of Error.

The action was never known, though the like occasions have been as frequent as elections, unless these Aylesbury men have more refined notions of their rights and privileges than others ever had.

As to the Habeas Corpus, the argument is so much stronger as Liberty is dearer than Property.

As to the Writ of Error, though the Lords Resolution is general, they now assert it to be of right only in this case

As the Commons, at the last Conference, waved the point of a Writ of Error being of right or of grace, so they do now, not by way of admission, but as it is not material in this case.

But thus much may be observed, that this is not the common case, where the question arises and falls under the determination of the Judges of the law, which is of petitions of right, and Writs of Error in the courts of Westminster, (as that of sir Thomas Armstrong was) where the queen is party: there it is in the room of a suit against the crown, and if denied, the party has no remedy.

This Petition to the queen, for a Writ of Error in parliament, is properly a parliamentary case, and is the same when the queen is party or not; and seems some remnant of our ancient constitution, where all petitions were to the king in parliament, or to the king and his great council, which was distinct from the House of Peers, and were examined by triers, whether fit for the parliament to proceed upon, or not; and to say, that upon such examination, they could not be rejected, is to say, that examination was insignificant. And, if in this case no Writ of Error lies, it cannot then be said, that

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the denying of it is an obstruction of justice, or contrary to Magna Charta.

That a Writ of Error lies not in any proceeding on any Habeas Corpus, has been the uniform opinion of former times, as appears in the Case of the City of London, 7 Jac. reported by the Lord Chief-Justice Coke, in his eighth Report, where one under an arrest, for the the penalty in a by-law, brought his Habeas Corpus, and the judges took it for a ground, that no issue or demurrer could be joined upon the return, nor could any Writ of Error lie upon their award; and upon that, as a principle, grounded their resolution, fol. 128.

And that this never came directly in question, is because a Writ of Error in such case was never asked, much less had, upon a bare commitment of any court whatsoever: And it is hard to imagine that there is any lawful resort or appeal for liberty, left untried at this day, when so many, in all times, have had occasion to apply for it; especially considering the frequent commitments of both Houses of parliament.

That the Commons are not surprized, to find the Lords make such a shew of submitting their privileges to the courts of Westminster, when it is in order to draw all the rights and privileges of both Houses to their own final determination; and much less when they consider how insignificant all courts of justice are rendered, while their lordships exercise the last resort in judicature.

The several attempts in the way of judicature, which have been made upon the constitution, are so many reasons for the Commons at last to make a stand.

The very form of the Writs of Error in parliament is altered in a most material part.

It is still returnable into parliament generally; and the judgment is entered, 'per Cur' 'Parliamenti.'

But where the ancient form, which appears in Rostall's Entries, fol. 302, was, 'Ut de consilio et advisamento, dominorum spiritualium 'et temporalium ac communitatum in parliamento nostro existentium ulterius pro errore 'corrigendo fieri faciamus quod de jure, &c.' Of late, as appears by a Writ of Error, printed in the lord chief-justice Saunders's second Report, fol. 223, (and agreeable to that are all the modern ones) that word 'communitatum' is omitted.—This is only touched for an instance, that even the highest Records, which ought to derive to us our laws and constitution pure and entire, have been corrupted.

And to proceed to instance some modern innovations upon our constitution, in point of Judicature:

In Dec. 18. Jac. 1. It appears by the Lords' Journal, that an Appeal to the Lords from a court of equity, was by them acknowledged to be as new and unprecedented, as any of the attempts which occasion the present Conference.—

Here the Lords interrupted your Managers, affirming, That they were restrained from entering into debate of their judicature of appeals from equity, as foreign from the subject-matter of the last Conference. But it was answered, and insisted by your Managers, that this was part of the matter offered at the last Conference.

And your managers declared, That they had more to offer, and were ready to proceed upon the subject-matter of the last Conference, in such manner as they thought their duty to the Commons of England required, if their lordships thought fit to hear them: whereupon the Lords did rise, and broke off the Conference.

Resolved, "That the proceedings of this House, in relation to the Aylesbury Men, committed by this House for a breach of privilege, and the other proceedings of this House, in that matter, are in maintenance of the ancient and undoubted rights and privileges of the Commons of England."

Ordered, "That all proceedings, in relation to the Aylesbury Men, committed by this House, and the Report of the Lords' Journal, and Reports of the Conference, and of the Free Conference, be printed."

Representation and Address of the Lords, on the Commitment of the five Aylesbury Men.] March 13. Upon the commitment of these five Aylesbury men, and their being remanded to Newgate, the House of Lords drew up the following Representation and Address, viz.

The Humble REPRESENTATION and ADDRESS of the Right Honourable the Lords Spiritual and Temporal, in Parliament assembled, presented to her Majesty the 14th day of March, 1704, and her Majesty's most gracious Answer thereunto: with their Lordship's Thanks for the same.

We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, are under an unavoidable necessity of making our humble application to your majesty, upon an occasion, which, as it is very grievous to us, so we fear it may be uneasy to your majesty: but the proceedings of the House of Commons, in relation to five burgesses of the town of Aylesbury, John Paty, John Oviat, John Paton, Henry Basse, and Daniel Horne, have been so very extraordinary, that the consequences of such proceedings may prove so fatal to the properties and liberties of the people of England, and so directly tend to the interruption of the course of justice, to the eluding the judicature of parliament, and to the diminution of your royal prerogative, that we cannot answer it to your majesty, to the kingdom, and to ourselves, without setting them before you in a due light.

One Matthew Ashby, a burgess of the borough of Aylesbury, brought an action upon the case at common law, against the constables of the town of Aylesbury (being the proper officers to return members to serve in

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parliament for that place) for having, by contrivance, fraudulently and maliciously hindered him to give his vote at an election. In this action a verdict was found for him; but judgment was given against him in your majesty's court of Queen's-Bench, which was reversed upon a Writ of Error brought in parliament; where he obtained judgment to recover his damages for the injury, and afterwards had execution upon that judgment.

The five persons above-named being burgesses of the same borough, and having (as they conceived) had the like wrong done them by the constables there, and supposing the law to be equally open to all Englishmen, did severally commence and prosecute actions against those officers, in order to recover their damages. And for so doing, they were sent for to the bar of the House of Commons, and committed prisoners to Newgate, the fifth day of December last, during the pleasure of the House of Commons, as having acted contrary to the declaration, in contempt of the jurisdiction, and in breach of the privileges of that House.

These proceedings are wholly new and unprecedented. It is the birthright of every Englishman, who apprehends himself to be injured, to seek for redress in your majesty's courts of justice: and if there can be any power can controul this right, and can prescribe when he shall, and when he shall not be allowed the benefit of the laws, he ceases to be a freeman, and his liberty and property are precarious, the crown lays claim to no such power; and we are sure the law has trusted no such authority with any subjects whatsoever. If a man mistakes his case, in believing himself to have a good cause of suit, when he has not; if he mistakes his court, by applying to an incompetent jurisdiction, he will fail of relief, and be made liable to costs, but to no other punishment: he is not guilty of a crime, nor is it a contempt of the court that has the proper jurisdiction.

But these men were guilty of no mistake: the point of law was settled by the judgment of that court, which is allowed to be the last resort; and this will continue to be the law, until it be altered by the legislative authority. They saw their neighbour quietly and unmolested reap the fruit of the judgment he had obtained; and yet, for pursuing the same remedy, they are condemned to an indefinite imprisonment, during the pleasure of the House of Commons. This method does introduce an uncertainty and confusion never before known in England. The most arbitrary governments cannot shew more direct instances of partiality and oppression. The point of law is judicially settled; and yet the House of Commons take upon them to punish men by imprisonment, for endeavouring to have the benefit of what is so established for law.

We humbly observe to your majesty that the first thing, they alledged in the warrant of commitment, as to the offence of these five persons, is, that those actions were brought contrary to a declaration of the House of Commons.

It was never yet heard (when there was a House of Lords in being, and a king or queen upon the throne) that the House of Commons alone claimed a power, by any declaration of theirs, to alter the law, or to restrain the people of England from taking the benefit of it; nor have their declarations any such authority, as to oblige men to submit to them at the peril of their liberty. If they have such a power in any case, they may apply it to all cases as they please; for when the law is no longer the measure, will and pleasure will be the only rule.

The certainty of our laws is that which makes the chief felicity of Englishmen: but if the House of Commons can alter the laws by the Declarations, or (which is the same thing) can deprive men of their liberty if they go about to take the benefit of them, we shall have no longer reason to boast of that part of our constitution.

The next thing alledged in the Warrant is, that the commencing and prosecuting these actions, was contempt of the jurisdiction of the House of Commons. Such a jurisdiction was never claimed by the House of Commons, till upon this occasion; and if this novelty of a jurisdiction be founded on their new authority of declaring, they will stand and fall together.

The House of Commons have for a long time exercised a jurisdiction over their own members by allowing or disallowing their elections, as they saw cause: but they have never before entertained a notion, that they had a jurisdiction over their electors, to determine (finally and exclusively of all other courts) the particular rights of those to whom they owe their being.

Your majesty's royal writ commands, that the several electors make choice of persons to represent them in parliament, in order to do and consent to such things as should be ordained there, relating to the state and defence of the kingdom and the church, for which the parliament is called: and they obey the command, in proceeding to chuse members for the parliament then summoned; but neither the writ which requires them to chuse, nor the indenture by which the return is made, import any thing whereby it may be inferred, that the electors put into the power of their representatives, their several rights of elections, to be finally disposed of at their pleasure.

It was an interest vested in them by law before the election, and which the law will preserve to them, to be exercised again in the like manner, when your majesty shall be pleased to call another parliament.

It was not possible for the electors to suspect that such a pretence would ever be set up by their representatives, when, in the course of so many ages, the House of Commons had never taken upon them to try or determine the right of any particular elector, unless incidently, and only in order to decide a question,

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of the title of some member of their own House to sit amongst them.

The right of election is a legal interest incident to the freehold, or founded upon custom, or the letters patents of your majesty's royal ancestors, or upon particular acts of parliament, and must be tried and determined like other legal interests: And this consideration does manifestly shew the absurdity of pretending, that such rights can be decided by the House of Commons, where there is neither a power of administering an oath, in order to discover the truth, nor a power of giving damages, which is the only reparation the elector is capable of receiving in such a case. Therefore, if the electors, when they are deprived of their rights, have no place to resort to, but the House of Commons, the right of election would be a right without a remedy, which indeed is no right at all.

And it is put into the power of the officers, who have the return of members to serve in parliament, to reject the votes of as many electors as they please, without being liable to make any reparation in damages to the parties; which is a notion not very likely to preserve the freedom and impartiality of elections.

The third thing alledged against these men in the warrant of commitment is, that by bringing these actions they have broken the privilege of the House of Commons. A breach of the privileges of parliament is certainly a great offence; and, of all others, the House of Lords ought to be the last who should go about to lessen or excuse it, as having a like interest with the Commons in the preservation of the privileges of parliament.

But however it might seem the interest of the Lords to be silent, while the House of Commons are setting a-foot new pretences of privilege, because they may share in the advantage; yet we think it our duty and our interest, to do all we can to preserve the constitution entire, and not to sit quiet when we see innovations attempted, which tend to the diminution of the rights of the crown, or to the prejudice of the subject: Because the best and surest way to preserve the rightful privileges of parliament, is to abide by those that are certain and known; and it is not in the power of either, or both Houses, to create new privileges to themselves.

It never was thought a breach of the privileges of parliament, to prosecute an action against any man, who was not entitled to privilege of parliament; and therefore since the constables of Aylesbury had no privilege of parliament, at the time when those actions were commenced or prosecuted, we cannot imagine, upon what foundation the pursuing these actions can be voted a breach of privilege by the House of Commons.

It seems very necessary it should be known upon what rule this pretence is grounded, that the people of England may be at a certainty, and see some limits set to the claims of privilege. To serve the turn, it hath been said, there are privileged cases, as well as privileged persons; but no instance has been produced, whereby this distinction can be applied to justify these commitments.

Actions at common law have been brought upon false returns and double returns of members to serve in parliament, as in the cases of sir Samuel Barnardiston and Mr. Onslow, which proceeded to Judgment, and a Writ of Error was brought in one of them, and the plaintiffs could not prevail in either of those suits; and yet it was never pretended, that the commencing or prosecuting those actions was a breach of privilege of parliament; nor were the persons concerned in them imprisoned or censured, though there was a much greater colour for such a pretence in those cases, because the question there directly concerned the right of sitting in parliament; and consequently those would have been indeed privileged cases, if any such distinction had been once thought of in those days: Whereas in the actions brought by these five men, neither the plaintiffs nor defendants were members of parliament, nor did the actions relate in any manner to the right of sitting there.

The opinion of the House of Commons, at that time, was very different from what it is now.

When the Judgment of the King's-bench (where sir Matthew Hale sat then Chief Justice) which passed in favour of sir Samuel Barnardiston, that the action was maintainable, was reserved in the Exchequer-Chamber, the House of Commons was so far from thinking it for their advantage, to have their members deprived of the benefit of the common law, that in the year 1679, a committee was appointed to enquire touching the reversing that Judgment, and by whose procurement and solicitation, and by what ways and means, the same was reversed, and the names of the particular judges that were concerned: And when afterwards that Judgment in the Exchequer-Chamber was affirmed in parliament, the House of Commons never thought themselves secure against the corruptions of the officers, who were to take the poll, and make return at elections, till they had got an act in the 7th and 8th years of the late king, which gave a remedy in Westminster-hall for false and double returns; so little contented were they, in their own cases, with the jurisdiction of the House of Commons, and the remedy to be had there, which now they so fiercely contend their electors should entirely acquiesce in: And we cannot but think it manifest partiality in those gentlemen, to go about, by such violent means, to deprive their electors of recovering of damages, when they are wronged in being deprived of giving votes, since they thought it necessary for themselves to have that advantage, when they are injured in their own elections.

The sufferings of these unfortunate men have not ended here, and the rights of the free-born subjects of England have received a further and no less dangerous wound, in their persons.

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These five men having endured a long and chargeable imprisonment, and despairing of their liberty any other way, were advised to sue out Writs of Habeas Corpus, returnable in your majesty's Court of Queen's-bench, hoping to obtain their discharge by the help of that court, where the Judgment ought to be given according to the laws of the land, without regard to any Votes, or Declarations, or commands to the contrary: But this endeavour proved unsuccessful, and they were remanded to Newgate by three of the judges of that court, contrary to the opinion of the Lord Chief Justice Holt.

We shall not presume to offer any opinion to your majesty, upon occasion of this Judgment, at present, because it is not regularly brought before the House; and we only mention it, because the House of Commons took such offence at the bringing these Writs of Habeas Corpus, that, on the 24th of February last, they voted, that whoever had abetted, promoted, countenanced, or assisted the prosecution of those writs, were disturbers of the peace of the kingdom, and had endeavoured, as far as in them lay, to overthrow the rights and privileges of the Commons in parliament.

This is a heavy charge; and if it be so criminal a thing for a prisoner to pray a Habeas Corpus, it does not only affect those who are at present concerned, but ought to touch every Commoner of England, in the most sensible manner.

Liberty of person is, of all rights, the most valuable; and of which, above all other things, the law of England is most tender, and has guarded with the greatest care, having provided writs of several kinds, for the relief of men restrained of their liberty, upon any pretence, or by any power whatsoever; that so in every case they may have some place to resort to, where an account may be taken of the reason and manner of the imprisonment, and the subject may find a proper relief according to his case.

No crime whatsoever does put an Englishman into so miserable a condition, that he may not endeavour, in the methods of law, to obtain his liberty; that he may not, by his friends and agents, sue out a Habeas Corpus, and have the assistance of solicitors and counsel, to plead his cause before the court where he is to be brought.

The court is bound by the law to assign him counsel, if there be occasion, and to give Judgment upon his case, as it stands upon the return of the Habeas Corpus, and have the assistance of solicitors and counsel, to plead his cause before the court where he is to be brought.

The court is bound by the law to assign him counsel, if there be occasion, and to give Judgment upon his case, as it stands upon the return of the Habeas Corpus, and to remand, discharge, or bail the prisoner, as the cause of his commitment appears there sufficient or insufficient in law; and if what is alledged as the cause of imprisonment appears to be no crime in law, it is not the authority of those who made the commitment, that can excuse that court for remanding the prisoner.

This is the law of England: But, according to these Resolutions of the House of Commons, if a man has the unhappiness (though through ignorance or mistake) to do an act which shall be voted a breach of privilege, he becomes in a worse condition than any felon or traitor; his confinement makes it impossible for him in person to solicit and procure a Habeas Corpus, and, if any have charity enough to assist him, or to plead for him, in order to shew to the Court the insufficiency of the commitment in matter of law, they become liable to lose their own liberty, and are involved in the same guilt of breach of privilege; So that let the imprisonment be upon the most trifling occasion imaginable, if it be by order of the House of Commons, every Commoner must submit to it without redress, no friends can help them, no other authority can deliver them, till your majesty shall put an end to that session.

The Lords have as just a concern as the House of Commons can have, to maintain the authority, and keep up the awe of parliamentary commitments: And they will always do it, as far as justice and the usage of parliaments will allow.

There have been cases, particularly that of the earl of Shaftsbury, where persons committed by the House of Lords, even members of that House, have sued out writs of Habeas Corpus; and upon the return of those writs, have been brought before the court of King's Bench, and their counsel have been heard on their behalf; and yet no censure ever passed upon them for these endeavours to obtain their liberty, or upon their agents, solicitors, or counsel.

The House of Commons formerly acted with more reserve upon so nice an occasion, as the liberty of the subject; for in the year 1680, when a writ of Habeas Corpus was served upon the serjeant at arms attending the House of Commons, in the behalf of Mr. Sheridan, who stood committed by order of that House; after the House was made acquainted, that such a writ was served upon their officer, and had entered into very long debates upon the matter, they did not think fit to interpose nor pass any censures upon the persons concerned in procuring the writ, or in appearing in behalf of the prisoners; but left the serjeant at arms at liberty to obey the command of the Habeas Corpus; which he did accordingly, by carrying his prisoner before the judge, where the Habeas Corpus was returnable.

The House of Commons have, in former ages, shewn a great and steady concern for the freedom of the persons of their fellow subjects; and upon their petitions many excellent laws have been made, to protect liberty against all unlawful restraints by any authority, even that of the crown: But now it is insisted that their own imprisonments are out of the reach of those laws, and their legality not to be examined.

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In the 3rd year of the reign of your royal grandfather, the House of Commons made a noble stand for the English liberties, and shewed, by undeniable evidence, that the causes of the imprisonment must be expressed in all cases, that so it might appear, upon the return of the Habeas Corpus, whether they were sufficient in point of law.

It could not then have been imagined, that the successors of those men would ever have pretended to an arbitrary and unlimited power of depriving their fellow subjects of their liberties, or to vote it to be criminal so much as to enquire into the validity of their commitments.

There is another occasion of offence, which the House of Commons have taken against John Paty and John Oviat, two of these prisoners, who thinking themselves wronged in their being remanded to Newgate, by the opinion of the major number of the judges of the court of Queen's Bench, humbly petitioned your majesty for a Writ of Error, in order to bring this judgment before your majesty in parliament: and it is certain the subject is never concluded by any judgment, till he comes to the last resort fixed by the law in this case.

The House of Commons being informed of these petitions, came to a Resolution, which they laid before your majesty, that the commitments of that House were not examinable in any other courts whatsoever; that no Writ of Error lay in this case; and that as they had expressed their duty to your majesty in giving dispatch to the supplies, so they had an entire confidence in your majesty, that you would not give leave for the bringing any Writ of Error.

The first position in this vote is very general, and the consequences of it are plain; if the commitments of the House of Commons are examinable in no other place, then no man in England, how insolent soever, is secure of his liberty longer than the House of Commons pleases; and men may be allowed at least to wish that it were not so, though they may have a very high opinion of the justice of that House.

It has been held as an undeniable maxim, that whoever executes an illegal command, to the prejudice of his fellow subjects, must be answerable for it to the party grieved.

Let it be supposed then, that an action of false imprisonment was brought against the serjeant of the House of Commons, and that the defendant justifies his taking the plaintiff into custody, by virtue of a warrant of that House, and it appears upon the face of the warrant, that the cause of the commitment was no crime in law, and the plaintiff demurs, what must the judges do in such a case? Will it be possible for them to avoid examining into the commitment and so give judgment one way or other? Or can it be pretended, that a Writ of Error may not be brought upon such a judgment? And is not the Court, before which the Writ of Error is brought, under a necessity to do justice thereupon, as the law requires?

As to the second thing they have taken upon them to assert, that no Writ of Error lies in the case, we affirm to your majesty with great assurance, that, by our constitution, the House of Commons have no right or pretence to determine whether that be so or not, the right of judgment when a Writ of Error is properly brought, is by law entrusted to that Court to which the Writ of Error is directed; and therefore we shall not at present say any thing to your majesty, in an extrajudicial way, and before the proper time as to that point, whether a Writ of Error brought upon a judgment for remanding prisoners upon a Habeas Corpus, can be maintained.

Which way that question will be decided hereafter, when the Writs of Error are returned into the parliament, is not at all material, in respect to the petitions of the prisoners which now lie before your majesty: For, unless your majesty be pleased to grant the Writs of Error according to their prayer, the matter cannot come to the proper decision in parliament, and justice will be manifestly obstructed.

Whether the Writs of Error ought to be granted, and what ought to be done upon the Writs of Error afterwards, are very different things. The only matter under your majesty's consideration is, whether, in right and justice, the petitioners are not entitled to have the Writs of Error granted.

We are sure, the House of Commons, in the year 1689, were of opinion, that a Writ of Error, even in cases of felony and treason, is the right of the subject, and ought to be granted at his desire, and is not an act of grace and favour, which may be denied or granted at pleasure: So that as far as the opinion of the House of Commons ought to have weight in such a question, (whatever the present opinion of the House is) they then thought a Writ of Error was the right of the subject in capital cases (where only it had been at any time doubted of.)

But that it is a Writ of Right in all other cases, has been affirmed in the law-books, is verified by the constant practice, and is the opinion of all your present judges, except Mr. baron Price, and Mr. baron Smith.

The law, for the better protection of property and liberty, has formed a subordination of Courts that men may not be finally concluded in the first instance: But this is a very vain institution, if they be left precarious in the method of coming to the superior Court.

All suits are begun, as well as carried on, by the authority of your majesty's Writs, and the subject has a like legal claim to all of them.

The petition for a Writ of Error returnable in parliament, is only a matter for form, and respect to your majesty, (like the petition which the Speaker makes in the name of the Commons, at the beginning of every parliament, for those privileges which they do not believe to depend upon the answer to those petitions) and is no more to be refused than any other Writ throughout the cause.

To affirm the contrary, is to allow an arbitrary latitude to intercept justice, and to make

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it depend upon private advices, and extra-judicial determinations, whether any causes at all shall be brought to judgment before the high court of parliament.

These things being considered, how extremely surprising is an Address from such a body as the House of Commons, that your majesty would not give leave for such a Writ?

And no less surprising is what they insinuate, as the reason of their confidence in your majesty, that you would hearken to such an Address, that they have given dispatch to the supplies; They proceeded surely in the matter of the supplies, with a nobler aim, for the safety of your majesty's crown and person, and for the delivering the kingdom from the oppression of French power, employed to set an unjust Pretender upon your majesty's throne.

These are good reasons for disposing of the people's money. Their liberties, and all that is valuable to them, depend entirely upon the good success of the war; and they have used, in all ages, to part freely with their money, for the defence of their liberties and properties, and the removing of grievances and oppressions.

But this is the first time a House of Commons have made use of their having given the people's money, as an argument why the prince should deny Writs of Right to the subject, obstruct the course of justice, and deprive them of their birth-rights.

On the 26th of February, the House of Commons proceeded to carry on their resentments to greater extremities, and voted, that the gentlemen who plead as counsel for the five prisoners, upon the returns of the Writs of Habeas Corpus, and the agents and solicitors who assisted them, were guilty of a breach of privilege, and ordered them to be taken into custody, which order has been executed.

This seems to be so great an excess, that it is hard to find words proper for expressing it. When Cromwell committed Mr. Maynard to the Tower, for assisting one Coney as his counsel, upon a Habeas Corpus, a celebrated author expresses the detestation due to such a fact, in these words: 'It was the highest act 'of tyranny that ever was seen in England: 'It was shutting up the law itself close pri-'soner, that no man might have relief from, or 'access to it.'

But as strange and unjustifiable as this appears, we beg leave to take notice of another thing yet more irregular (if it be possible:) While the matter was depending before your majesty, upon the petitions for Writs of Error; after the House of Commons had made an Address to your majesty, that you would not give leave for the bringing of Writs of Error; after your majesty had, by your gracious answer, signified to them, 'That this matter, relating 'to the course of judicial proceedings, was 'of the highest importance, and therefore 'your majesty thought it necessary to weigh 'and consider, very carefully, what was pro-'per for you to do;' and after they had voted to take this very Answer of your majesty's into consideration: The day following, they ordered the five prisoners to be removed from Newgate, and taken into the custody of the serjeant at arms attending the House of Commons; and this Order was executed at midnight, with such circumstances of severity and terror, as has been seldom exercised towards the greatest offenders.

Your majesty is the only proper judge how highly disrespectful this action is to your royal person and authority. But it concerns us to say, that such a proceeding tends directly to the depriving the petitioners of that justice, which they were endeavouring to obtain by means of the Writs of Error.

While your majesty was deliberating how to put an end to a matter, which they had only made difficult by an unreasonable address, the House of Commons rightly apprehended, that justice would prevail with your majesty over all other considerations, and therefore, as far as possible to disappoint the prisoners, of the fruit they expected from these Writs of Error when granted, they transferred them, in the mean time, to another prison.

This practice of removing prisoners from one custody to another hath been ever complained of, as manifest oppression, and most evidently destructive of the liberty of the subject: It is a mischief provided against in express words, by the act made in the reign of your royal uncle king Charles the second, for the better securing the liberty of the subject; That if any person, being a subject of this realm, shall be committed to any prison, or in custody of any officer whatsoever, for any criminal, or supposed criminal matter, that the person shall not be removed from the said prison or custody, into the custody of any officer (unless it be by a Habeas Corpus, or some other legal Writ:) and this upon the great penalties mentioned in that act. The penalties in the act were new, but the law of England was the same before the making it. The shifting of men from one prison to another, while they are using means in the course of law to recover their liberty, is inexcusable cruelty, and against the plain rules of natural justice; for by such artifices, imprisonments, however unlawful, might be made perpetual, and the subject, as he was at the point of being discharged from one prison, might be, without end, removed to another.

May it please your majesty, your dutiful subjects, the Lords spiritual and temporal, were so solicitous to avoid any thing, which might give a pretence to interrupt the necessary and early provision for the war, in order to improve the wonderful successes God had given to your arms; that though they were sensible the imprisonment of these men, in the manner, and upon the pretences abovementioned, was a manifest attempt to elude the judicature of parliament, and of pernicious example, to the liberty and property of the subject, yet they forbore to take notice of it, till they were in a

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manner enforced by Petitions from the prisoners presented the 24th of February last, and by the unjustifiable proceedings of the House of Commons the same day which we have already mentioned to your majesty.

But then the Lords found it absolutely necessary, to enter into a consideration of the whole matter, as it appeared to them, and upon the 27th of February they came to the following Resolutions:

Resolved, "That neither House of parliament have power, by any vote, or declaration, to create to themselves new privileges, not warranted by known law and custom of parliament.

"That every freeman of England who apprehends himself to be injured, has a right to seek redress by action at law, and that the commencing and prosecuting an action at the common law, against any person, who is not entitled to privilege of parliament, is no breach of the privilege of parliament.

"That the House of Commons, in committing to the prison of Newgate, John Paty, John Oviat, John Paton, Henry Basse, and Daniel Horne, for commencing and prosecuting actions at the common law, against the late constables of Aylesbury, for not allowing their votes in the election of members to serve in parliament, upon pretence, that their so doing was contrary to a declaration, a contempt of the jurisdiction and a breach of the privilege of that House, have assumed to themselves alone a legislative power, by pretending to attribute the force of a law to their declaration, have claimed a jurisdiction not warranted by the constitution, and have assumed a new privilege, to which they can shew no title by the law and custom of parliament, and have thereby, as far as in them lies, subjected the rights of Englishmen, and the freedom of their persons, to the arbitrary votes of the House of Commons.

"That every Englishman who is imprisoned by any authority whatsoever, has an undoubted right, by his agents or friends, to apply for, and obtain a Writ of Habeas Corpus, in order to procure his liberty by due course of law.

"That for the House of Commons to censure or punish any person, for assisting a prisoner to procure a Writ of Habeas Corpus, or by vote or otherwise, to deter men from soliciting, prosecuting, or pleading upon such Writ of Habeas Corpus, in behalf of such prisoner, is an attempt of dangerous consequence, a breach of the many good statutes provided for the liberty of the subject, and of pernicious example, by denying the necessary assistance to the prisoner upon a commitment of the House of Commons, which has ever been allowed upon all commitments, by any authority whatsoever.

"That a Writ of Error is not a Writ of grace, but of right, and ought not to be denied to the subject, when duly applied for, (though at the request of either House of parliament) the denial thereof being an obstruction of justice, contrary to Magna Charta."

These Resolutions were delivered to the Commons at a Conference, the 28th of February, and they took time to consider of them till the 7th of March; upon which day, at their desire, a second Conference was had, and though it was too apparent by what was delivered by the Commons at that Conference (which consisted of injurious invectives against the House of Lords, and tedious recitals of precedents in no sort applicable to the present subject of debate) that their design was either to provoke the Lords to such a degree, as might necessitate them to break off all correspondence, or by engaging them in new matters, to draw things to such a length, as might prevent the bringing these debates to any issue during the session: Yet the Lords immediately desired a Free Conference, which was afterwards had with the Commons.

We are so desirous that your majesty should be made fully acquainted with all the passages relating to this dispute between the two Houses, that we humbly beg leave to annex to this our Representation, what passed at the first and second Conference; and also (as far as we have been capable of recollecting in so short a time) the substance of what was said at the Free Conference, and in our debates, in maintenance of the Resolutions of the House of Lords.

But we take it to be a duty necessarily incumbent on us, to observe to your majesty, the manner in which we have been treated by the House of Commons, at these Conferences; so that from thence your majesty, according to your great wisdom, may judge to what such proceedings do naturally tend. They told us, that the judicature of the House of Lords was unaccountable in its foundation, and inconsistent with the constitution: if they mean it is so ancient, that no account can be given of its foundation, it is true; but there is reason to believe it began with the monarchy, and we are sure it has continued without interruption, unless during that unhappy interval, when a pretended House of Commons destroyed the Church and the Monarchy, as well as the House of Lords: as many ages as the constitution of the English government has lasted, this judicature has consisted with it, and formed a noble and necessary part of it, and therefore these gentlemen will hardly be believed, against so long an experience, that it is inconsistent with the constitution.

They also charged the Lords in direct terms, with usurping the hearing appeals, with making advances upon the constitution, with contriving to bring liberty and property into the bottomless and insatiable gulf of the Lords' judicature, and with direct reproaches, as to the manner in which that judicature has been exercised, and in the most contemptuous way told us, they forbore to mention the instances, because they hoped we would reform.

We desire no other judge but your majesty, how such a treatment of us becomes these gentlemen; and we dare appeal to all your subjects, for witnesses of the irreproachable manner of administering justice in the House of Lords.

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We hope the great displeasure the House of Commons has conceived against us may prove of some real service, and of useful caution to your majesty, for it has drawn them directly to own (what was but too visible before) that they are aiming at more power, and a larger share of the administration, than is trusted with them by the nature of our government. They directly complained, that by the constitution, the judicature, in the last resort, was not placed in the same hands with the legislature, though they cannot shew it to be so, in any country where the government is not arbitrary, and the prince's will the law. They have been long endeavouring to break in upon the Lords' share in the legislature, of which we could mention too many instances to your majesty. From an ancient claim, that aids to the crown are to begin in the House of Commons, and that the Lords could not alter the sums, they have of late years pretended (but without any reason, and against the known usage of parliaments) that we could make no alterations in any part of a money-bill, though it have no relation to the money: and, upon that foot, when they have had a mind to get any thing passed into a law, of the reasonableness of which they have despaired to convince the Lords, they have tacked it to a money-bill, in order to put the crown and the Lords under that unhappy necessity, either to agree to a law they might think prejudicial to the public, or to lose the money, which perhaps, at that time, was absolutely necessary to the saving the kingdom.

By this method they assume to themselves the whole legislative authority, taking in effect the negative voice from the crown, and depriving the Lords of the right of deliberating upon what is for the good of the kingdom: For this reason the Lords had, in a very solemn manner, resolved never to suffer such impositions for the future, let the importance of the bill be never so great. This resolution was well known, and yet in this present session (as appears by the printed Votes of the 28th of November last) a great number of the gentlemen of the House of Commons, to the manifest danger of disappointing the supplies of the year, which must have been the ruin of the whole confederacy, and delivering up of Europe into the hands of France, made an attempt to tack to the land tax a bill which had been rejected in two preceding sessions of parliament.

Thus the House of Commons have formerly set on foot several attempts, against that share in the legislature which is placed in the Lords: But this is the first time they have published their desire, to be let into the judicature of parliament.

Whatever they would insinuate upon this occasion, we desire not to meddle with the choice of the Commons' representatives, we willingly leave that matter where it is, and in what manner it is exercised there; how impartially and how steadily, is so well known by experience to most parts of the kingdom, and so universally understood, that the people will be extremely desirous their estates and properties should be subject to such determinations.

It is not strange the Free Conference ended without success, when the Commons came to it with such a temper, as appears by the Votes of the 8th of March, made after they themselves had consented to the Free Conference. If those Votes had been published soon enough, it would have fully convinced the Lords, how vain a thing it was to confer with them further, upon the matters in debate at the former Conferences; for, not content with what they had done before, upon information that their Serjeant had been served with two Writs of Habeas Corpus, returnable before the Lord Keeper (Wright) in behalf of Mr. Montagu and Mr. Denton, two of the gentlemen who had been of counsel with the five prisoners, they came to a Resolution, That no commoner, committed by them for breach of privilege, or contempt of the House, ought to be, by Habeas Corpus, made to appear before any other judicature, and required their Serjeant to make no return, or yield any obedience to those Writs; and that for such refusal he had the protection of the House of Commons.

It has been always held the undoubted prerogative of the crown, to have an account of the reason why any subject is deprived of liberty, and it has ever been allowed, that, by the known common law, it is the right of every subject under restraint, upon demand, to have his Writ of Habeas Corpus, and thereupon to be brought before some proper court, where it may be examined, whether he be detained for a lawful cause: and the statutes made in the reign of your royal grandfather and your royal uncle, have enacted, that, in all cases, Writs of Habeas Corpus be granted and obeyed, by the respective officers, upon great penalties.

But these Votes import a direct repeal of those laws, as to all persons committed by the House of Commons.

It is no longer worth disputing, whether a person committed by them, though for a fact which appears to be both lawful and necessary, may be delivered by any court; for by this new law he shall never be brought thither, and the Serjeant is not only warranted, but commanded openly to contemn your majesty's royal Writs of Habeas Corpus, brought upon the act of 31 Charles 2, which is an invasion of your prerogative, never before heard of in England.

Your majesty does not claim an authority to protect any of your officers for disobeying a known law. The Habeas Corpus act, in time of imminent and visible danger, was in the late reign suspended by acts of parliament for some short time, and yet (so sacred was that law held) that those acts passed with great reluctancy, and one of the arguments that prevailed most for agreeing to that temporary suspension was, that it would be an unanswerable evidence to all future times, that this act could never be suspended afterwards, by any less authority than that of the whole legislature. But we live

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to see a House of Commons take upon them to suspend this law by a Vote.

They ordered, that the Lord Keeper of your great seal should be acquainted with their Resolutions, to the end the writs of Habeas Corpus may be superseded, as contrary to law, and the privileges of their House. They are contrary to no law, but that of these Votes, which surely are none of the laws the Lord-Keeper was sworn to observe: But yet he is to act at his peril. They have ordered this law to be published to him by their clerk.

The Lord Keeper is a Commoner, and if he disobeys, it is a breach of privilege; and if they should carry it so far, as to order him into custody, he may seek, but is not to have relief from any Habeas Corpus.

We humbly beg pardon of your majesty for this long and melancholy Representation, which we could not avoid, without being guilty of treachery to your majesty, and to our native country. The five persons immediately concerned are but poor men; but we well know your majesty's justice and compassion extends itself to the meanest of your subjects.

The matters in dispute are of the highest consequence: Your majesty's prerogative, the reverence due to laws, and the liberties and properties of all the people of England are concerned, and at stake, if these encroachments prevail.

We do not pretend to solicit your majesty to put a stop to these innovations, your own wisdom will suggest the most proper methods: We have endeavoured to do our duty, in laying the whole matter before you.

We humbly beg leave so far to resume what has been said, as to present your majesty a short view of the unhappy condition of such of your subjects, as have right of giving Votes for chusing members to serve in parliament, which has been hitherto thought a great and valuable privilege; but, by the late proceedings of the House of Commons, is likely to be made only a dangerous snare to them, in case they who may be hereafter chosen to serve in parliament, shall think fit to pursue the methods of this present House of Commons.

If they refrain from making use of their right in giving their Votes, they are wanting in their duty to their country, by not doing their parts towards the chusing such representatives as will use their trust for the good of the kingdom, and not for the oppression of their fellow-subjects.

If the officer, who has the right of taking the suffrages, refuse to admit them to give their Votes, they must either sit down by it, and submit to be wrongfully and maliciously deprived of their rights; or if they bring their actions at law, in order to assert their rights, and recover damages for the injury (as all other injured men may do in like cases) they become liable to indefinite imprisonment, by incurring the displeasure of those who are elected.

If, being thus imprisoned, they seek their liberty by Habeas Corpus, (the known remedy of all other subjects) they do not only tie their own chains faster, but bring all their friends and agents, their solicitors and counsel, into the same misfortune with themselves.

If they think themselves to have received injury by the judgment upon the Habeas Corpus, and seek relief by Writ of Error, (the known refuge of those who suffer by any wrong judgment) all that assist them in that matter, are likewise to lose their liberties for it, and they themselves will be removed to new prisons, in order to avoid the justice of the law.

We humbly conclude with acquainting your majesty, that we have been informed by the petition of two of the prisoners, that they have been long delayed, though they have made their applications in due manner for Writs of Error: We are under a necessary obligation, for the sake of justice, and asserting the judicature of parliament, to make this humble address to your majesty, that no importunity of the House of Commons, nor any other consideration whatsoever, may prevail with your majesty to suffer a stop to be put to the known course of justice, but that you will be pleased to give effectual orders for the immediate issuing of the Writs of Error.

The Queen's Answer.] To which her majesty was pleased, the same day, to return the following most gracious Answer:

"My Lords; I should have granted the Writs of Error desired in this Address: But, finding an absolute necessity of putting an immediate end to this session, I am sensible there could have been no further proceeding upon that matter."

Vote of Thanks.] Ordered, by the Lords spiritual and temporal in parliament assembled, that the humble thanks of this House be presented to her majesty, for her most gracious Answer, in which she has expressed so great a regard to the judgment of this House, so much compassion to the petitioners, and such tenderness to the rights of the subject.

The Queen's Speech at the end of the Session.] March 14. The queen came to the House of Peers, and after passing several Bills made the following Speech:

"My Lords and Gentlemen; I cannot put an end to this session, without doing you the justice to acknowledge you have fully made good the assurances you gave me at the beginning of it, by the great readiness you have shewn in the dispatch of the public business. And I make no doubt, but this dispatch will prove a real advantage to us, and a great discouragement to our enemies.

"Gentlemen of the House of Commons; I return you my hearty thanks in particular for the great supplies with which you have enabled me to carry on this necessary war. I assure you, they shall be carefully applied to the uses, for which they have been given; and I persuade myself, I shall always have the chearful assistance of my dutiful and loving subjects, in the prosecuting of the present war, till our enemies are obliged to such a peace, as shall be a lasting advantage and security to us and our allies.

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"My lords and gentlemen; we have, by the blessing of God, a fair prospect of this great and desirable end, if we do not disappoint it by our own unreasonable humour and animosity, the fatal effects of which we have so narrowly escaped in this session, that it ought to be a sufficient warning against any dangerous experiments for the future.—I conclude therefore with exhorting you all to peace and union, which are always commendable, but more particularly necessary at this time, when, the whole kingdom being shortly to proceed to new elections, it ought to be the chief care of every body, especially of such as are in public stations, to carry themselves with the greatest prudence and moderation. Nothing will contribute more to our reputation abroad, and our security at home."

Then the Lord Keeper, by her majesty's command prorogued the parliament to Thursday the 1st of May following.*

Bills not passed.] "Before we take leave of this parliament," says Tindal, "it will be proper to take notice of some things, which were begun, but not finished in it. There was a bill offered for the naturalization of some hundreds of Frenchmen, to which the Commons added a clause, disabling the persons so naturalized from voting in elections of parliament. The true reason of this was, that it was observed that the French in England gave in all elections their votes for those who were most zealous against France; and yet, with an apparent disingenuity, some of the members gave it as a reason for such a clause, that they must be supposed so partial to the interests of their own country, that it was not fit to give them any share in the government. The Lords looked on this as a new attempt, and the clause added was a plain contradiction to the body of the bill, which gave them all the rights of natural born subjects; while this took from them the chief of them all, the chusing their representatives in parliament. They would not therefore agree to it, and the Commons resolved not to depart from it; so that, without coming to a free conference, the bill fell with the session.

"Another bill was begun by the Lords against the Papists. It was occasioned by several complaints brought from many parts of the kingdom, especially from Cheshire, of the practices and insolence of those of that religion. A bill therefore was ordered to be brought in, with clauses in it which would have made the act passed against them four years before, prove effectual, which, for want of these, had hitherto been of no effect at all. This passed the lords, and was sent to the Commons, who had no mind to pass it, but, to avoid the ill effects of their refusing such a bill, they added a clause to it, containing severe penalties on papists, who should once take the oaths, and come into the communion of the Church of England, if they should be guilty of any occasional conformity with popery afterwards. They imagined, that this of occasional conformity was so odious to the Lords, that every clause, that condemned it, would be rejected by them. But when they came to understand, that the Lords were resolved to agree to the clause, they would not put it to that hazard; and therefore the bill lay on their table till the prorogation.

"A general Self-Denying bill was offered by those very men, who, in the first session of parliament, when they hoped for places themselves, had opposed the motion of such a bill with great indignation. Now the scene was a little altered; they saw they were not like to be favourites, and therefore pretended to be patriots. This looked so strangely in them, that it was rejected; but another bill of a more restrained nature passed, disabling some officers, particularly those who were concerned in the prize-office, from serving in parliament. To this a general clause was added, that disabled all, who held any office, that had been created since the year 1684, or any officer that should be created for the future, from sitting in parliament. This bill had a quick and easy passage among the Commons, being brought in on the 16th of January, and sent up to the Lords on the 23d of that month, who did not think fit to agree to so general a clause, but consented to a particular disability put on some officers by name. The Commons did not agree to this alteration, but insisted on the whole; and therefore the bill fell.

"Among the many ways and expedients, by which the Tory-party of the House of Commons endeavoured to secure their interest against a new election, they thought it necessary to procure an act, whereby the commissions of the

* "Thus this session," says Tindal, "and with it this parliament, came to an end. It was no small blessing to the queen and to the nation, that they got so well out of such hands. They had discovered on many occasions, and very manifestly, what lay at the bottom with most of them; but they had not skill enough to know how to manage their advantages, and to make use of their numbers. The constant successes, which had attended the queen's reign, put it out of their power to compass that which was aimed at by them, the forcing a peace, and consequently the delivering up all to France. Sir Christopher Musgrave, the wisest man of the party, died before the last session; and by their conduct after his death it appeared, that they wanted his direction. He had been at the head of the opposition, that was made in the reign of king William from the beginning to the end; but he gave up many points of great importance in the critical minute, for which there were good grounds to believe, that he had twelve thousand pounds from that king at different times. At his death he appeared to be much richer than by any visible computation he could be valued at; which made some cast an imputation upon his memory, as if he had received great sums even from France."

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peace should be lodged in the hands of men of estates; and thereupon a bill was brought in, and passed on the 2d of February, for qualification of justices of the peace; but the same being sent up to the Lords, they did not think fit to give it their concurrence.

The Parliament dissolved.] "April 5. The parliament, according to the triennial act, being now expiring, a proclamation was issued out for dissolving it; and, on the 23d, another was published for calling a new parliament."

The conclusion of the Parliament set the whole nation in a general ferment; both parties studied how to dispose the minds of the people in the new elections, with great industry and zeal.

Promotions in the Church.] "Before the queen went to Cambridge," continues Mr. Tindal, "she resolved at last to fill the see of St. David's which had now been long vacant. Dr. Bull was promoted to it, in the room of Dr. Watson, deprived for his enormities.* Bull had writ the most learned treatise the age had produced, of the doctrine of the primitive church, concerning the Trinity. This treatise had been so well received all Europe over, that in an assembly general of the clergy of France, the bishop of Meaux was desired to write over to a correspondent he had in London, that they had such a sense of the service he had done their common faith, that upon it they sent him their particular thanks: I read the letter, says Burnet, and so I can deliver it for a certain truth, how uncommon soever it may seem to be. The queen had, a little before this, promoted Dr. Beveridge to the see of St. Asaph, who had shewed himself very learned in the ecclesiastical knowledge. They were both pious and devout men, but were now declining; both of them being old, and not like to hold out long. Soon after this, the see of Lincoln became vacant by that bishop's death, and Dr. Wake (late archbishop of Canterbury) was promoted to it. He was a man eminently learned, an excellent writer, a good preacher, and, which is above all, a man of an exemplary life.

Alterations and Promotions in the State.] "It was no small mortification to the high church party that the duke of Buckingham was removed, and the privy seal given to the duke of Newcastle, whose interest was great with the whigs. About the same time, the earl of Peterborough and the lord Cholmondley were sworn of the privy counsel. The lord Cutts was appointed to command the forces in Ireland under the duke of Ormond; but this seeming preferment was, in reality, a kind of disgrace, for his lordship would gladly have changed this command for an equivalent in the service abroad. The earl of Montague was created marquis of Mounthermer, and duke of Montague.

Progress of the Elections.] "The election of the members of the House of Commons was managed with zeal and industry on both sides. The Clergy took great pains to infuse into all people tragical apprehensions of the danger the church was in. The Universities were inflamed with this, and took all possible means to spread it over the nation with much vehemence. The danger of the Church of England grew to be the word as given in an army. Men were known as they answered it. None carried this higher than the Jacobites, though they had made a schism in the church. At last, even the papists, both at home and abroad, seemed to be disturbed with the fears which the danger of our church put them under; and this was supported by the Paris gazette, though of that the party seemed ashamed. Books were writ and dispersed over the nation with great industry, to possess all people with the apprehensions that the church was to be given up, that the bishops were betraying it, and that the court would sell it to the dissenters. Now it was, that the Memorial of the Church of England, penned by some zealous churchmen, was printed and spread abroad, setting

* "Watson's affair was debated this last session in the House of Lords, which the queen came to hear in person. His business had been kept long on foot in the courts below, by all the methods of delay that lawyers could invent: after five years pleading, the concluding judgment was given in the Exchequer, that he had no right to the temporalities of that bishopprick: and that, being affirmed in the Exchequer-Chamber it was now by a Writ of Error brought before the Lords in the last resort: but as the House seemed now to be set, he had no mind to let it go to a final decision; so he delayed the assigning the errors of the judgment, till the days were lapsed, in which, according to a standing order, errors ought to be assigned upon a Writ of Error, in default of which the record was to be sent back. He suffered the time to laspe, though particular notice was ordered to be given him, on the last day, in which, according to the standing order, he might have assigned his errors: and the House sat that day some hours on purpose waiting for it. Some weeks after that, when the session was so near an end, that he thought his cause could not be heard during the session and so must in course have been put off to another session, he petitioned for leave to assign his errors: this was one of the most solemn orders, that related to the judicature of the Lords, and had been the most constantly stood to: it was not therefore thought reasonable to break through it, in favour of so bad a man, of whom they were all ashamed, if parties could have any shame. He had affected, in every step he had made, to seek out all possible delays, for keeping the see still void, which, by reason of a bad bishop, and a long vacancy, was fallen into great disorder: yet, after all this, he had still by law the benefit of a Writ of Error, which he might bring in any subsequent session of parliament. For which reason the queen resolved to fill the see.

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forth her melancholy situation and distress.* They also hoped, that this campaign, proving less prosperous, than had been expected, might put the nation into ill humour, which

* "This pamphlet was composed by Dr. Drake the physician, and others, and humbly offered to the consideration of all true lovers of our church and constitution. In it was the following passage: "Those that look no deeper than the surface of things, are apt to conclude, without hesitation, that the church of England is in a very flourishing condition. Its dignities and preferments make a very good shew, and the patronage of the queen seems to promise a continuance of prosperity. But, for all this fine complexion and fair weather, there is an hectic fever lurking in the very bowels of it, which, if not timely cured, will infect all the humours, and at length destroy the very being of it. The nation has a long time abounded with sectaries, who in the preceding century, violently overturned both church and state, though their own extravagance and confusion, through a special providence, contributed more than human wisdom to the re-establishment of them. The sons of those men yet remain, and inherit, many of them, the principles of their fathers. It would therefore be no very uncharitable supposition, without any other argument, to imagine them heirs of their designs likewise; for it is easy to demonstrate, that such principles lead naturally to such designs, and that no man can heartily embrace one, without having favourable thoughts of the other. Nor can we blame them; for, if any man is persuaded (as many of our sectaries avow themselves to be) that the discipline and worship of the church of England are an abomination, his conscience will readily suggest to him, that he ought to do his utmost to purge the land from such abomination; and upon this pretence has the church been once already subverted, though raised again by God in a miraculous manner. In those days a thorough reformation, root and branch, was the cry of all the pulpits, the Shibboleth of the party. If, since the church recovered its ancient lustre and authority, they have been more silent, and in appearance more moderate, it is not that they are better tempered or affected, but that, submitting to the necessity of the times, they have dissembled their intentions better: Yet some overt-attempts here, and the whole course of their proceedings in Scotland during these two last reigns, sufficiently shew us what treatment we might expect, if they had the power. But these people, though they may have the will, have not the power alone to endanger the church. The dissenters are not yet considerable enough for their numbers (however they boast of them) wealth, or quality, to bring about any great change in the constitution of church or state. And our church is too strong to be shaken, but through the treachery or supine negligence of its own members; or those, at least, that pretend to be such; and, as such, palm themselves frequently upon their country and church, to the irreparable damage of both. The sudden death of the late king disappointed, mortified, and humbled the dissenters and their abettors, the Whigs, so excessively, that they were ready to have thrown a blank to the church, and would have taken a general indemnity, with an exclusion from all public trust and office. They, who not a month before, breathed nothing but defiance, and insulted the church, and treated the princess with the most scandalous indignities and rudest calumnies, were in an instant grown the most dutiful subjects, the most affectionate friends, and the most peaceable, meek, and christian-spirited people in the universe. They preached nothing but charity, peace, and love, forgiveness of injuries, oblivion of wrongs, and the utter abolition and extinction of parties and factions for ever. So very good and gracious can men in fear be! But whence this humility and dejection of mind, this sweetness of temper? Was it natural, or the result of more extraordinary grace, or more christian principles than other men were possessed of? No; but they had just before injured and affronted the princess and church of England in so insolent and outrageous a manner, upon presumption, that durable schemes were upon the anvil in their favour, that their own consciences, upon the vanishing of them, prompted them to seek pardon and peace, from those whom they had so abused, by an extraordinary submission. But when, contrary to these fears, they found the head of the church, and, after her example, the members of it too inclined not only to forgive, but to forget past injuries, and that, instead of punishment, they met not with so much as a rebuke or reproach, but comfortable speeches and kind assurances from the queen herself, and good countenance from some of her prime ministers, their spirits were elated in an instant; the spirit of humility and pacification vanished; their former insolence and presumption returned upon them in full force; and they began to challenge and provoke the church as boldly as ever. Thus far the history of their carriage towards the church is public and recent, as likewise the advances, that have been made in their favour, and the repulses, which the church has met with. Every thing has passed in Scotland to the desire of the presbytery, even to the endangering the church and monarchy of England, and the disherison of its crown, and the immediate prejudice of its sovereignity; but on the contrary, nothing for the security of the church here, which can not only boast itself to be a main branch of the civil constitution, but the prop and support of the whole frame of government; which removed, it must necessarily fall to the ground, as has been once fatally experimented. All attempts to settle it on a perpetual foundation have been opposed and rendered ineffectual by ministers, who owe their present grandeur to its protection; and who with a prevarication as shame-

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might furnish them with some advantages. In opposition to all this, the court acted with such caution and coldness, that the Whigs had very little strength given them by the ministers in managing the elections. They seemed rather to look on indifferent spectators, but the Whigs exerted themselves with great activity and zeal. The dissenters who had been formerly much divided, were now united intirely in the interests of the government, and joined with the whigs every where.

Sir Nathan Wright dismissed, and Cowper made Lord Keeper.] "When the elections were all over, the court took more heart, for it appeared, that they were sure of a great majority; and the Lord Godolphin declared himself more openly, than he had yet done, in favour of the Whigs. The first instance given of this, was the dismissing of sir Nathan Wright, who had continued so long lord-keeper, that he was fallen under a high degree of contempt with all sides; even the Tories, though he was wholly theirs, despising him. He was sordidly covetous, and did not at all live suitably to that high post. He was become extremely rich though he was not charged with bribery in his court; but there was a rumour with relation to the livings of the crown, that were given by the great seal, as if they were set to sale by the officers under him. The great-seal being sent for, the custody of it was given, in council, to William Cowper, with the title of Lord-keeper. He was a gentleman of a good family, of excellent parts, and of an engaging deportment, very eminent in his profession, and had been, for many years considered as the man who spoke the best in the House of Commons. His promotion was very acceptable to the Whigs, who had been much disgusted with the Lord Treasurer for the coldness he expressed, as if he would have maintained a neutrality between the two parties, though the one supported him, while the other designed to ruin him. But this step, in preferring the new Lord-keeper, went a great way towards reconciling the Whigs to him.*

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ful as their ingratitude, pretend to vote and speak for it themselves, while they solicit and bribe others with pensions and places to be against it."

"This last reflection was visibly levelled against the duke of Marlborough and the lord treasurer Godolphin: and the rest of that libel, containing no less injurious insinuations against the queen herself for removing some of her ministers, the grand jury of London and county of Middlesex, at the sessions held at the Old-Bailey, on the 31st of August, "with the utmost indignation and resentment, presented one book, lately printed by a notorious criminal [David Edwards] (convicted in that court for printing and publishing a seditious and treasonable libel, for which he was fined and pilloried, and was now fled from justice) intitled, The memorial of the church of England, &c. to be a false, scandalous, and traitorous libel, secretly, but industriously spread abroad, to advance and accomplish traitorous and wicked designs, highly impeaching the truth and sincerity of her majesty's royal resolution and pious assurances to support and preserve our government, both in church and state, the rights, liberties, and properties of all her people; and also craftily designed to reproach and scandalize her wise and faithful ministry, divide her councils, create variances, disputes, and discords in her parliament, and to raise and foment animosities, fears, and jealousies amongst all her people." Upon this presentment the court ordered the said libel to be forthwith burnt in the sight of the said court then sitting, and also, on the Tuesday following, before the Royal Exchange; which was done accordingly, on the 1st of September, the sheriffs attending." Tindal.

FIRST SESSION OF THE SECOND PARLIAMENT OF QUEEN ANNE.

List of the House of Commons.] October 25, 1705. This day, the New Parliament met. The following is a List of the Members of the House of Commons:

A LIST of the HOUSE OF COMMONS in the Second Parliament summoned by Queen ANNE, October 25, 1705.

Abington,
Grey Nevil.
Agmondesham,
Lord Cheyne,
Sir Samuel Garrard.
Albans, (St.)
George Churchill,
Henry Killegrew.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough, (Yorkshire)
Robert Moncton,
William Jessop.
Allerton-North,
Sir William Hustler,
Roger Gale.
Andover,
John Smith,
Francis Shepherd.
Anglesea,
Lord Bulkeley.
Apleby,
James Graham,
William Harvey.
Arundel,
James Butler,
Edmund Dummer.
Ashburton,
Richard Reynell,
Gilbert Yard.
Aylesbury,
Sir John Whitwronge,
Simon Mayne.
Banbury,
Charles North.
Barnstaple,
Nicholas Hooper,
Samuel Rolle.
Bath,
William Blaithwayt,
Alexander Popham.
Beaumaris,
Henry Bertie.
Bedfordshire,
Sir Vincent Charnock,
Sir William Gostwick.
Bedford Town,

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* The duchess of Marlborough, in the Account of her Conduct (p. 159.) says, "The next year I prevailed with her majesty to take the great seal from sir Nathan Wright, a man despised by all parties, of no use to the crown, and whose weak and wretched conduct in the court of Chancery, had almost brought his very office into contempt. His removal, however, was a great loss to the church, for which he had ever been a warm stickler. And this loss was the more sensibly felt as his successor, my lord Cowper, was not only of the Whig-party, but of such abilities and integrity, as brought a new credit to it in the nation."

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William Farrer,
Sir Philip Monoux.
Bedwin,
Sir George Byng,
Nicholas Pollexfen.
Berkshire,
Richard Nevil,
Sir John Stonehouse.
Berwick Town,
Samuel Ogle,
Jonathan Hutchinson.
Beverley,
Sir Charles Hotham,
John Moyser.
Bewdley,
Salway Winnington.
Bishop's Castle,
Henry Brett,
Henry Newport.
Bletchingly,
John Ward,
George Evelyn.
Bodmin,
Francis Roberts,
John Hoblyn.
Boralston,
Spencer Cowper,
Peter King.
Boroughbridge,
John Stapleton,
Craven Peyton.
Bossiney,
Sir Simon Harcourt,
John Manley.
Boston,
Sir Edward Irby,
Richard Wynn.
Brackley,
Charles Egerton,
John Sidney.
Bramber,
John Asgil,
Lord Windsor.
Brecon County,
Sir Edward Williams.
Brecon Town,
Sir John Jeffreys.
Bridgewater,
Sir Thomas Wroth,
George Balch.
Bridport,
Alexander Pitfield,
Thomas Strangeways.
Bristol,
Robert Yate,
Sir William Daines.
Bridgnorth,
William Whitmore,
Sir Humphry Briggs,
Bucks, County,
Sir Richard Temple,
William Egerton.
Buckingham Town,
Sir Edmund Denton,
Brown Willis.
Calne,
Edward Baynton,
George Ducket.
Cambridgeshire,
John Bromley,
Sir Rushout Cullen.
Cambridge Town,
Sir John Cotten,
Anthony Thompson.
Cambridge University,
Arthur Annesley,
Dixey Windsor.
Camelford,
William Pole,
Henry Pinnel.
Canterbury,
Henry Lee,
John Hardress.
Cardiff,
Thomas Mansel.
Cardiganshire,
John Pugh.
Cardigan Town,
Lewis Price.
Carlisle,
Thomas Stanwix,
Sir James Montagu.
Carmarthenshire,
Griffith Rice.
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
Sir John Wynn.
Carnarvon Town,
Thomas Bulkeley.
Castle Rising,
Horatio Walpole,
William Fielding.
Cheshire,
Langham Booth,
John Crew Offley.
Cheshire Town,
Sir Henry Bunbury,
Peter Shackerly.
Chichester,
William Ellison,
Sir Thomas Littleton.
Chippenham,
Sir James Long,
Walter White.
Chipping-Wicomb,
Charles Godfrey,
Fleetwood Dormer.
Christ's Church,
Francis Gwynn,
William Ettricke.
Cirencester,
Allen Bathurst,
Henry Ireton.
Clifton,
Nathaniel Herne,
Frederick Herne.
Clithero,
Edward Harvey,
Daniel Harvey.
Cockermouth,
James Stanhope,
Thomas Lamplugh.
Colchester,
Sir Isaac Rebow,
Sir Thomas Webster.
Corfcastle,
John Banks,
Richard Fownes.
Cornwall,
Hugh Boscawen,
Sir Richard Vivian.
Coventry,
Sir Orlando Bridgman,
Edward Hopkins.
Cricklade,
Edmund Dunch,
Samuel Barker.
Cumberland County,
Richard Musgrave,
George Fletcher.
Denbighshire,
Sir Richard Middleton.
Denbigh Town,
William Robinson.
Derbyshire,
John Curzon,
Thomas Coke.
Derby Town,
Lord Cavendish,
Sir Thomas Parker.
Devizes,
Sir Francis Child,
Josiah Diston.
Devonshire,
Sir William Courtney,
Robert Rolle.
Dorsetshire,
Thomas Strangeways,
Thomas Chaffin.
Dorchester,
Nathaniel Napier,
Awnsham Churchill.
Dover,
Matthew Aylmer,
Philip Papillon.
Downton,
Sir Charles Duncomb,
John Eyre.
Droitwich,
Charles Cox,
Edward Foley.
Dunwich,
Sir Charles Blois,
John Rous.
Durham County,
Sir Robert Eden,
John Tempest.
Durham City,
Thomas Conyers,
Sir Henry Bellasys.
Eastlow,
Sir Henry Seymour,
George Clark.
Edmund's Bury,
Sir Thomas Felton,
Aubury Porter.
Essex,
Sir Francis Masham,
Thomas Middleton.
Eversham,
John Rudge,
Hugh Parker.
Exeter,
Sir Edward Seymour,
John Snell.
Eye,
Sir Joseph Jekyll,
Spencer Compton.
Flintshire,
Sir John Conway.
Flint Town,
Sir Roger Mostyn.
Fowey,
George Granville,
John Hicks.
Gatton,
Sir George Newland,
Paul Docminique.
Germans (St.)
Henry Fleming,
Edward Elliot.
Glamorganshire,
Sir Thomas Mansel.
Glamorganshire,
Sir John Guise,
Maynard Colchester.
Gloucester City,
John Hanbury,
William Cooke.
Grampound,
Francis Scobell,
James Craggs.
Grantham,
Lord Granby,
Sir William Ellis.
Grimsby,
Arthur Moore,
William Cotesworth.
Grimstead,
John Conyers,
John Toke.
Guildford,
Denzil Onslow,
Robert Wroth.
Harwich,
Sir Thomas Daval,
John Ellis.
Haslemere,
George Woodroffe,
John Fulham.
Hastings,
William Ashburnham,
John Pulteney.
Haverfordwest,
John Laugharn.
Helston,
Sidney Godolphin,
Francis Godolphin.
Herefordshire,
Lord Scudamore,
Henry Gorges.
Hereford City,
James Bridges,
Thomas Foley.
Hertford County,
Sir John Spencer,
Ralph Freeman.
Hertford Town,
Charles Cæsar,
Richard Goulston.
Heydon,
Anthony Duncomb,
William Pulteney.
Hytesbury,
Edward Ash,
William Monson.
Higham Ferrers,
Thomas Wentworth.
Hindon,
George Morley,
Reynolds Calthorp.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
Charles Eversfield,
Henry Goring.
Huntingtonshire,
John Dryden,
John Pocklinton.
Huntingdon Town,

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Edward Wortley,
John Pedley.
Hythe,
Sir Philip Boteler,
John Boteler.
Ilcester,
Edward Strode,
John Webb.
Ipswich,
Henry Pooley,
John Bence.
Ives, (St.)
Sir Bartho. Gracedeice,
John Borlace.
Kellington,
Sir William Corytou,
Samuel Rolle.
Kent,
Lord Villiers,
Sir Cholmond. Dering,
Kingston,
Sir William St. Quintin,
William Maisters.
Queensborough,
Robert Byerley,
Christopher Stockdale.
Lancashire,
Charles Stanley,
Richard Shuttleworth.
Lancaster Town,
Robert Heysham,
William Heysham.
Lanceston,
Lord Hyde,
William Carey.
Leicestershire,
John Verney,
John Wilkins.
Leicester Town,
Sir George Beaumont,
James Winstanley.
Leominster,
Lord Coningesby,
Edward Harley.
Leskard,
William Bridges,
Thomas Dodson.
Lestwithiel,
Russel Roberts,
James Kendall.
Lewes,
Thomas Pelham,
Richard Paine.
Lincolnshire,
George Whichcott,
Albemarle Bertie.
Linzoln City,
Thomas Lister,
Sir Thomas Meers.
Litchfield,
Richard Dyott,
Sir Henry Gough.
Liverpool,
William Clayton,
Thomas Johnson.
London,
Sir Robert Clayton,
Sir William Ashurst,
Sir Gilbert Heathcote,
Samuel Shepherd.
Ludlow,
Sir Thomas Powis,
Action Baldwyn.
Luggershall,
Walter Kent,
John Webb.
Lyme-Regis,
Thomas Freke,
John Burridge.
Lymington,
Thomas Dore,
Paul Burrard.
Lynn Regis,
Sir Charles Turner,
Robert Walpole.
Maidstone,
Sir Thomas Colepeper,
Thomas Bliss.
Malden,
William Fyche,
John Comyns.
Malmsbury,
Thomas Farrington,
Henry Mordaunt.
Malton,
Sir William Strickland,
William Palmes.
Marlborough,
John Jeffreys,
Algernoon Seymour.
Marlow,
Sir James Etheridge,
James Chace.
Maxes, (St.)
Sir Joseph Tredenham,
Francis Godfrey.
Melcomb-Regis,
Maurice Ashley,
Anthony Henley.
Merioneth,
Richard Vaughan.
Midhurst,
Robert Orme,
Laurence Alcock.
Middlesex,
Scory Barker,
Sir John Wolstonholm.
Milbourn,
Sir Thomas Travel,
Thomas Medlicott.
Minehead,
Alexander Lutterel,
Sir Jacob Banks.
Michael (St.)
Sir William Hodges,
Hugh Fortescue.
Monmouthshire,
John Morgan,
Hopton Williams.
Monmouth Town,
Sir Thomas Powell.
Morpeth,
Sir Richard Sandford,
Edmund Maine.
Montgomeryshire,
Edward Vaughan,
Montgomery Town,
Charles Mason,
Newark,
James Saunderson,
John Digby,
Newcastle, (Staffordsh.)
Crew Offley,
John Lawton.
Newcastle, (Northum.)
Sir William Blacket,
William Carr.
Newport, (Cornwall)
Sir Nicholas Morrice,
Sir John Pole,
Newport, (Hants.)
Lord Cutts,
William Stevens.
Newton, (Lancash.)
Thomas Leigh,
John Ward.
Newton, (Hants.)
James Worsley,
Henry Worsley,
Norfolk County,
Roger Townshend,
Sir John Holland.
Northamptonshire,
Sir Justinian Isham,
Thomas Cartwright.
Northampton Town,
George Montagu,
Francis Arundel.
Northumberland,
Thomas Forster,
Sir John Delavall.
Norwich,
Waller Bacon,
John Chambers.
Nottinghamshire,
Sir Thomas Willoughby,
John Thornhaugh.
Nottingham Town,
Robert Sacheverell,
William Pierrepoint.
Okehampton,
Thomas Northmore,
John Dibble.
Orford,
Sir Edmund Bacon,
Sir Edward Turner.
Oxfordshire,
Sir Edward Norris,
Sir Robert Jenkinson.
Oxford City,
Sir John Walter,
Thomas Rowney.
Oxford University,
Sir William Whitlock,
Will. Bromley.
Pembrokeshire,
Wriot Owen.
Pembroke Town,
John Meyrick.
Penryn,
James Vernon,
Samuel Trefusis.
Peterborough,
Gilbert Dolben,
Sidney Montagu.
Petersfield,
Norton Pawlet,
Leonard Bilson.
Plymouth,
Sir George Byng,
Charles Trelawney.
Plymton,
Sir John Cope,
Richard Edgcomb.
Pool,
Sir William Phippard,
Samuel Weston.
Pontefract,
William Lowther,
Sir John Bland.
Portsmouth,
Sir William Gifford,
Sir George Rook.
Preston,
Francis Annesley,
Arthur Manwaring.
Queenborough,
Sir John Jennings,
Thomas King.
Radnor County,
Thomas Harley.
Radnor Town,
Robert Harley.
Reading,
Sir William Rich,
Sir Owen Buckingham.
Retford,
Sir Hardolph Wastneys,
Rich. Molesworth.
Richmond,
William Walsh,
Thomas York.
Rippon,
John Aislaby,
John Sharp.
Rochester,
Sir Cloudesly Shovel,
Sir Staff. Fairbourn.
Romney,
Walter Whitfield,
John Brewer.
Rutlandshire,
Sir Thomas Mackworth,
Richard Halford.
Rye,
Edward Southwell,
Philip Herbert.
Ryegate,
Sir John Parsons.
Stephen Harvey.
Salop County,
Robert Lloyd,
Richard Corbett.
Salop Town,
John Kynaston,
Richard Mytton.
Saltash,
James Butler,
Joseph Moyle.
Sandwich,
Josiah Burchet,
Sir Henry Furnese.
Sarum New,
Charles Fox,
Robert Eyre.
Sarum Old,
Robert Pitt,
Charles Mompesson.
Scarborough,
Robert Squire,
William Thompson.
Seaford,
William Lowndes,
George Naylor.
Shaftsbury,
Sir John Cropley,
Edward Nicholas.
Shoreham,
John Wicker,
Nathaniel Gould.
Somersetshire,
John Pigott,

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Nathaniel Palmer,
Southampton County,
Thomas Jarvis,
Richard Chandler.
Southampton Town,
Lord Woodstock,
Adam Cardonel.
Southwark,
John Cholmondeley,
Charles Cox.
Staffordshire,
Edward Baggot,
Henry Paget.
Stafford Town,
Walter Chetwynd,
Thomas Foley.
Stamford,
Charles Cecil,
Charles Bertie.
Steyning,
William Wallis,
Henry Goring.
Stockbridge,
Sir John Hawles,
Edward Laurence.
Sudbury,
Sir Harvey Elwys,
Philip Skippon.
Suffolk,
Sir Robert Davers,
Lord Dysert.
Surrey,
Sir William Scawen,
Sir Richard Onslow.
Sussex,
Sir George Parker,
Charles Eversfield.
Tamworth,
Thomas Guy,
Joseph Girdler.
Tavistock,
Henry Manaton,
John Bulteel.
Taunton,
Sir Francis Warre,
Edward Clark.
Tewksbury,
Richard Dowdeswell,
Edmund Bray.
Thetford,
Sir John Woodhouse,
Thomas D'Grey.
Thirsk,
Sir Thomas Frankland,
Sir Godfrey Copley.
Tiverton,
Robert Burridge,
Thomas Bere.
Totness,
Sir Humph. Mackworth,
Thomas Coulston.
Tregony,
Sir Philip Meadows.
John Trevanion.
Truro,
Peregrine Bertie,
Henry Vincent.
Wallingford,
Clement Kent,
William Jennings.
Warwickshire,
Andrew Archer,
Sir John Mordaunt.
Warwick Town,
Francis Greville,
Algernoon Greville.
Wareham,
Thomas Erle,
George Pitt.
Wells,
Maurice Berkley,
Henry Portman.
Wendover,
Sir Roger Hill,
Richard Hampden.
Wenlock,
William Forrester,
George Weld.
Weobly,
Henry Cornwal,
John Birch.
Westbury,
Henry Bertie,
Robert Bertie.
Westlow,
Sir Charles Hedges,
Francis Palmer.
Westminster,
Henry Boyle,
Sir Henry Duttoncolt.
Westmorcland,
Robert Lowther,
William Flemming.
Weymouth,
Anthony Henley,
Henry Thynn.
Whitchurch,
John Scrimpton,
Richard Woolaston.
Winchelsea,
George Dodington,
John Hayes.
Winchester,
Lord Pawlett,
George Bridges.
Windsor,
Lord Fitzharding,
Richard Topham.
Wilton,
John Gantlet,
William Nicholas.
Wiltshire,
Sir Richard How,
Robert Hyde.
Woodstock,
James Bertie,
William Cadogan.
Wooton Basset,
Francis Popham,
Henry St. John.
Wygan,
Emanuel How,
Sir Roger Bradshaw.
Worcestershire,
Sir John Packington,
William Bromley.
Worcester City,
Thomas Wylde,
Samuel Swift.
Yarmouth (Norf.)
George England,
John Nicholson.
Yarmouth (Hants.)
Anthony Morgan,
Henry Holmes.

Yorkshire,
Lord Fairfax,
Lord Hartington.
York City,
Robert Benson,
Sir William Robinson.

Speaker to this Parliament, JOHN SMITH.

John Smith, esq. chosen Speaker.] The appearance in the House of Commons was greater than had been known at the opening of any parliament for fifty years before; no less than 456 members being present. The first struggle was about the choice of a Speaker, by which a judgment was to be made of the temper and inclination of the members. The court declared for Mr. John Smith, a man of clear parts, and of a good expression, who was then in no employment, but had gone through great posts in the former reign with reputation and honour, having been a Commissioner of the Treasury, and Chancellor of the Exchequer. He had, from his first setting out in the world, been thoroughly in the principles and interests of the Whigs, yet with a due temper in all personal things, with relation to the Tories. But the Tories all declared against him for Mr. Bromley, one of the representatives of the university of Oxford, a man of a grave deportment and good morals, but considered as a violent Tory, and as a great favourer of Jacobites, which appeared evidently in a relation which he printed of his travels. The marquis of Granby, eldest son to the duke of Rutland, who first proposed Mr. Smith, was seconded by Mr. Robert Walpole*, and sir John Holland, the marquis of Hartington, sir William Strickland, sir Charles Turner, and some others spoke by turns on the same side. On the other hand, the earl of Dysert recommended Mr. Bromley, and was supported by sir Thomas Hanmer, sir Edward Seymour, sir William Drake, Mr. Fredrick Herne, Mr. Annesley, and sir Roger Mostyn. No affair of that sort had ever been carried with such heat on both sides as this was: So that it was just to form a judgment upon it of the temper of the House. After a debate of about an hour and half, the House divided, and, two members being appointed to tell the voices, Mr. Smith had 248, and Mr. Bromley 205 only. Mr. Smith being, on the 27th of October, presented to the queen, seated on the throne in the House of Peers, she approved the choice of him.

* "I should be glad to know whether you design to be in town at the opening of the sessions. It is now reported afresh that Mr. Harley will quit the chair, and that the court will set up the Solicitor, but that the other Tories will try for Mr. Bromley; I do not know whether you will think this contest worth your attendance, but sure some good may be struck out of this division. Lord Hartington continues ill of the gout, and Mr. Smith has a defluxion on his eyes, and if Mr. Walpole should be absent, the poor Whigs must lose any advantage that may offer itself, for want of a leader." Spencer Compton (afterwards Sir Spencer Compton, Speaker of the House of Commons, and Earl of Welmington) to Robert Walpole. Coxe's Walpole, vol. 2, p. 6.

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The Queen's Speech on opening the Session.] After which, her majesty made the following Speech to both Houses;

" My Lords and Gentlemen;

" I have been very desirous to meet you as early as I thought you might be called together without inconvenience to yourselves. And it is with much satisfaction, I observe so full an appearance at the opening of the parliament, because it is a ground for me to conclude, you are all convinced of the necessity of prosecuting the just war, in which we are engaged, and therefore are truly sensible, that it is of the greatest importance to us, to be timely in our preparations.—Nothing can be more evident, than that if the French king continues master of the Spanish monarchy, the balance of the power in Europe is utterly destroyed, and he will be able in a short time to ingross the trade and the wealth of the world.—No good Englishman could at any time be content to sit still, and acquiesce in such a prospect; and at this time we have great grounds to hope, that by the blessing of God upon our arms, and those of our allies, a good foundation is laid for restoring the monarchy of Spain to the House of Austria; the consequences of which which will not only be safe and advantageous, but glorious for England.—I may add, we have learned by our own experience, that no peace with France will last longer, than the first opportunity of their dividing the allies, and of attacking some of them with advantage.—All our allies must needs be so sensible this is the true state of the case, that I make no doubt but measures will soon be so concerted, as that, if we be not wanting to ourselves, we shall see the next campaign begin offensively on all sides against our enemies, in a most vigorous manner.—I must therefore desire you, gentlemen of the House of Commons, to grant me the supplies, which will be requisite for carrying on the next year's service both by sea and land; and, at the same time, to consider, that the giving all possible dispatch, will make the supply itself much more effectual.—The firmness and conduct, which the duke of Savoy has shewn amidst extreme difficulties, is beyond example. I have not been wanting to do all that was possible for me in order to his being supported.—I ought to take notice to you, that the king of Prussia's troops have been very useful to this end. Your approbation of that treaty last session, and the encouragement you gave upon it, leave me no doubt of being able to renew it for another year.—I take this occasion to assure you, that not only whatever shall be granted by parliament for bearing the charge of the war, shall be laid out for that purpose with the greatest faithfulness and management; but that I will continue to add, out of my own revenue, all I can reasonably spare, beyond the necessary expences for the honour of the government.

" My Lords and Gentlemen; By an act of parliament passed the last winter, I was enabled to appoint commissioners for this kingdom, to treat with commissioners to be impowered by authority of parliament in Scotland, concerning a nearer and more complete Union between the two kingdoms, as soon as an act should be made there for that purpose. I think it proper for me to acquaint you, that such an act is passed there; and I intend in a short time, to cause commissions to be made out in order to put the Treaty on foot, which I heartily desire may prove successful, because I am persuaded, that an Union of the two kingdoms will not only prevent many inconveniences, which may otherwise happen, but must conduce to the peace and happiness of both nations; and therefore I hope I shall have your assistance in bringing this great work to a good conclusion.—There is another Union I think myself obliged to recommend to you in the most earnest and affectionate manner; I mean an Union of minds and affections amongst ourselves. It is that, which would, above all things, disappoint and defeat the hopes and designs of our enemies.—I cannot but with grief observe, there are some amongst us, who endeavour to foment animosities; but I persuade myself, they will be found to be very few, when you appear to assist me in discountenancing and defeating such practices.—I mention this with a little more warmth, because there have not been wanting some so very malicious, as even in print to suggest the Church of England, as by law established, to be in danger at this time.—I am willing to hope, not one of my subjects can really entertain a doubt of my affection to the Church, or so much as suspect, that it will not be my chief care to support it, and leave it secure after me; and therefore we may be certain, that they, who go about to insinuate things of this nature, must be mine and the kingdom's enemies, and can only mean to cover designs, which they dare not publicly own, by endeavouring to distract us with unreasonable and groundless distrusts and jealousies.—I must be so plain, as to tell you, the best proofs we can all give at present of our zeal for the preservation of the church, will be to join heartily in prosecuting the war against the enemy, who is certainly engaged to extirpate our religion, as well as to reduce this kingdom to slavery.—I am fully resolved by God's assistance to do my part. I will always affectionately support and countenance the Church of England as by law established. I will inviolably maintain the Toleration. I will do all I can to prevail with my subjects to lay aside their divisions, and will study to make them all safe and easy. I will endeavour to promote religion and virtue amongst them, and to encourage trade, and every thing else, that may make them a flourishing and happy people. And they, who shall concur zealously with me in carrying on these good designs, shall be sure of my kindness and favour."

The Lords' Address thereon.] November 1. The Lords attended the queen with the following Address:

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"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to make our humble and sincere acknowledgments to your majesty, for your most gracious speech to both Houses; which has opened the eyes, and raised the hearts, of all your loyal subjects.—Your majesty is pleased to give us warning of the danger of being so far deluded, as to depend again on the faith of treaties with an enemy, who has never yet had any other regard to them than as they served the purposes of his interest and ambition; and to inform us, that no peace can be lasting, safe, and honourable, till the Spanish monarchy be fixed in the House of Austria, and France reduced to such a degree that the balance of power in Europe be again restored.—We humbly concur with your majesty in these your wise and noble sentiments. And we faithfully promise, that no dangers shall deter us, nor any artifices divert us, from doing all that is in our power, to assist your majesty in carying on the war, till you shall be enabled to procure such a peace for Europe.—Your majesty is graciously pleased to encourage us with the hopes of a glorious campaign the next year: and we humbly present our thanks to your majesty, for having wisely and providently endeavoured to concert such measures as, by the goodness of God, may be a reasonable foundation, for those hopes: and we assure your majesty, nothing on our part shall be wanting, to make them effectual.—We rest confident, that all your majesty's allies, excited by your constancy and courage, and fired by the example of a prince whom you have been pleased to mention in so honourable a manner, will make their utmost efforts to carry on the cause of liberty, and bring this just and necessary war to a speedy and happy conclusion.

"May it please your majesty; What you have already performed, and what you are still pursuing for the good of christendom, discovers a greatness of mind, equal to the most heroic of your predecessors.—But we, who have the happiness to be your subjects, ought in the first place to admire in your majesty that tender and indulgent affection to your people, which you have shewn from the beginning of your reign; that earnest desire to unite them among themselves, and to make them all easy, safe and happy, under your government; that steady zeal for the Church of England as by law established, and that compassion for those who are so unhappy as to dissent from her. All which your majesty having expressed at this time in so gracious and moving a manner, cannot but raise in us the most firm and lively resolutions of promoting every thing you have thought fit to recommend.— We assure your majesty, we will do all we can, to discountenance and defeat the designs and practices of those who foment animosities among your people; and will ever shew the utmost detestation of those ungrateful and wicked men, who labour to disbonour your majesty's reign, and distract your subjects with unreasonable and groundless jealousies of dangers to the Church of England.

"We shall be ready to concur in all measures requisite to put a stop to the malice of these incendiaries. In the mean time, we humbly advise and beseech your majesty to require and command your officers and ministers, to whom that part belongs, that they prosecute and punish them with the utmost rigour of law, as the most spiteful and dangerous enemies to the Church and State.—Your majesty's example is the shining ornament of our Church, which, under the influence of your happy government, increases in honour and esteem, not only at home, but abroad. Your unexampled bounty for the relief of the wanting clergy (which has been justly and universally acknowledged and celebrated) is an undeniable evidence of your concern for the dignity and honour of the church; and your majesty's care to lay hold of every opportunity of declaring it from the throne makes it impossible for any of your subjects to entertain a real doubt of your zeal for the support of the Church as by law established.

"We beg leave to offer to your majesty our most sincere assurances that we will not be wanting in our utmost endeavours to reconcile and unite all your subjects, and to extinguish those unhappy animosities which have too much prevailed among us; the effecting whereof seems to be the only happiness wanting to complete the blessings of your reign, which we pray God may long continue; and that you may see the fruit of all your majesty's gracious admonitions to your subjects, in their hearty and entire union; and the happy effects of all your great designs abroad, in the well established peace and liberty of Europe."

The Queen's Answer.] Her majesty's Answer was as follows:

"My lords; I return you my hearty thanks for your Address; and I assure you, it is a great satisfaction to me, to find you are so ready to concur in those things which I have recommended to you."

The Commons' Address.] Nov. 6. The Commons presented their Address as follows;

"Most gracious Sovereign; your majesty's most dutiful and loyal subjects, the Commons of England, in parliament assembled, are met together, with minds fully disposed to assist your majesty in compassing the great and glorious designs, mentioned in your most gracious speech to both Houses of parliament; for which we beg leave to return our most hearty thanks, and at the same time to congratulate the glorious success of your majesty's arms, and those of your allies.—We are fully convinced, that the balance of power in Europe can never be restored, till the monarchy of Spain is in the possession of the House of Austria, and that no peace with France can be secure and lasting whilst the French king shall be in a condition to break it; and therefore your faithful Commons are fully resolved, effectually to enable

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your majesty to carry on the war with vigour, to support your allies, and make good such treaties as your majesty shall judge necessary to reduce the exorbitant power of France.—It is no small encouragement to your Commons chearfully to grant the supplies necessary for those great ends, to find a frugal management and a just and prudent application, of the public money.—We cannot omit upon this occasion, most thankfully to acknowledge your majesty's goodness, in continuing to contribute out of your own revenue to the expences of the war.—We want words to express the deep sense we have of the many blessings we enjoy under your majesty's most happy government: we are throughly sensible of your affectionate care to support and countenance the Church of England, as by law established, your resolution to maintain the Toleration, and to encourage the trade, union, and welfare of your people.—This being the happy condition of all your subjects, it is the greatest concern imaginable to us, to find, your majesty has so just reason to resent the ingratitude of some, who endeavour to foment animosities and divisions amongst us; and we cannot without indignation reflect, that there should be any so malicious as to insinuate, that the Church of England, as by law established, is, or ever can be, in danger, for want of your majesty's care and zeal to support and maintain it. Your majesty's exemplary piety, your steady adherence to the Church of England, leave no room to doubt, but that these suggestions proceed from your majesty's and the kingdom's enemies, who to cover their own disaffection to the present establishment and administration, endeavour to distract your subjects with unreasonable and groundless distrusts and jealousies.—Your majesty may be assured, that your Commons will zealously concur in every thing, that may tend to discourage and punish such incendiaries, and to disappoint your enemies both at home and abroad."

The Queen's Answer.] To this her majesty answered:

"Gentlemen; I take very kindly the confidence you express in my care of the public, and your concern for the occasion I have had to complain.—I return you my hearty thanks for the assurances of your support and assistance, which, by God's blessing, I shall always endeavour to improve for the advantage and happiness of my people."

The Commons' Address, concerning the Union and Succession in Scotland.] This done, the Commons* went vigorously on with the necessary Supplies and other matters; and on the 18th, resolved that an Address should be presented to her majesty, "To return her the thanks of the House, for her great regard of the good and welfare of both her kingdoms of England and Scotland; for her great care and endeavour to settle the Succession of the kingdom of Scotland in the House of Hanover, for preserving the peace and promoting the Union of the two kingdoms; and to assure her that they would, to the utmost of their power, assist her majesty to bring that great work to a happy conclusion, and likewise that she would be graciously pleased to direct, that the whole proceedings of the last Sessions of parliament in Scotland, relating to the Union of the two kingdoms, and the settlement of the Succession of Scotland, in the House of Hanover, might be laid before that House;" and, having ordered an Address to be presented to her accordingly by such members of that House as were of her privy-council, Mr. Secretary Harley acquainted them, That that having been done accordingly, her majesty was pleased to answer "That she took very kindly the sense they expressed of her endeavours to promote the Protestant Succession, and the Treaty of Union with Scotland: and that she had given direction for complying with their Address, and that they should have the state of that matter, as soon as it could conveniently be sent them."

A Supply granted.] Proceeding afterwards upon the Supply, they resolved; "That 357,000*l.* be granted for Guards and Garrisons, including 5,000 Marines for the Fleet. That 386,233*l.* 18*s.* 6*d.* be for the maintaining the 40,000 Men. That 177,511*l.* 3*s.* 6*d.* be for the additional 10,000 Men. That the proportion with Portugal be 10,210 Men, and 222,379*l.* 5*s.* 10*d.* to maintain them. That 5,000 land Forces be maintained in Catalonia, and 96,729*l.* 11*s.* 4*d.* be for them. That 414,166*l.* 13*s.* 6*d.* be for her majesty's pro-

* "The first matter, with which the Commons commonly begin, is to receive Petitions against the members returned, so that gave a further discovery of the inclinations of the majority: the corruption of the nation was grown to such a height, and there was so much foul practice on all hands, that there was, no doubt, great cause of complaint. The first election that was judged, was that of St. Albans, where the Dutchess of Marlborough had a house: she recommended admiral Killigrew to those in the town; which was done all England over, by persons of quality, who had any interest in the Burghers: yet, though much foul practice was proved on the other hand, and there was not the least colour of evidence to fix any ill practice on her, some reflected very indecently upon her: Bromley compared her to Alice Piers, in king Edward the Third's time, and said many other virulent things against her; for indeed she was looked upon, by the whole party, as the person who had reconciled the Whigs to the Queen, from whom she was naturally very averse. Most of the controverted elections were carried in favour of the Whigs: in some few they failed, more by reason of private animosities, than by the strength of the other side. The House of Commons came readily in to vote all the supplies that were asked, and went on to provide proper funds for them." Burnet.

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portion to the Allies. That 48,630*l.* be for payment, for bounty-money to the forces that were in Germany, 7,047*l.* to make good the additional Troops of Hanover and Zell, and 5,296*l.* for Levy-Money to recruit the Horses in Flanders."

Debate in the House of Lords, concerning the next Successor.] Nov. 15. The House of Lords having fixed upon this day to consider of the State of the Nation,

Lord *Haversham** opened the debate in these words:

"My Lords; It may perhaps be expected since I moved to you the State of the Nation, that I should say somewhat to you upon this occasion; and though I never laboured under more difficulties than I do at present, yet being conscious to myself of a heart full of loyalty and duty to her majesty, and zeal for her service, as is possible for any subject to have; and knowing, that the best way of preserving liberty of speech in parliament, is to make use of it, I will mention three or four general heads to your lordships, and speak to them with a great deal of freedom and plainness.

"The first thing I shall speak to is, the present confederate war in which we are engaged: And because the best way of judging what we may reasonably expect for the future, is to consider the actions that are passed, give me leave to take a little notice to your Lordships of the operations of the last campaign: I shall not say much of our forcing the French lines, and our beating the French troops afterwards, (though that was a very great and brave action) but because there was such a mixture of victory and misfortune; and that this is such a chequered piece, I purposely forbear taking further notice of it.—But there were two other actions which, I think, take in your whole campaign, the march of our army to the Moselle, and the business of Overisch; in both which, give me leave to say, (not to give it a harder term) I think we were not used as we might have reasonably expected. Our General, with a great deal of conduct, covered prince Lewis of Baden's army; nor can it be doubted, he might easily have joined us if he had pleased, without the least danger from the French; which if he had done, (by the best account I could ever get, and I think I have a very true one) we had been at least 25,000 stronger than the enemy there. But being disappointed of being joined by prince Lewis, and of the assistance we expected from him, that great design proved abortive.

* "This lord, whom Burnet often mentions cursorily, but without thinking him of consequence enough to draw his character, is little known. Being of a republican family, which recommended him, to the earl of Anglesea, the patron of the Dissenters, he married the daughter of that earl, who recommended him to the good graces of Charles the second. The king made him a baronet, and offered him the treasurership of the chambers, which he declined; his principles being as yet of a more stubborn temper than those of his father-in-law. The young baronet was active against the measures of the court during the Popish reigns, and joined the prince of Orange, by whom he was made a baronet and lord of the admiralty. He offended the Tory House of Commons, who impeached the Whig Lords in 1701; and the Tory administration were eager to remove him. However, being disgusted, as his biographer says, at the promotion of the earl of Pembroke, he took all opportunities of opposing almost every thing that was advanced by the court, and finding no notice taken of him by the court, he went on with his resentment, and was a great obstacle to the Occasional Conformity bill, which at that time was voted for by all who had places of trust. From this time his lordship seems entirely to have abandoned his first principles, and to have given himself up to the high church party, though he continued to go sometimes to meetings. His historian ascribes this change to the violent measures of the Whigs; but after so candid a confession as he had made above of his lordship's disgusts, the reader will be apt to think that the measures of the Whigs were not the sole stumbling-block. Be that as it may, in 1705 we find lord Haversham opening the debate against the duke of Marlborough; and, in the year 1707, he was one of the lords that attacked the conduct of the admiralty. In 1708, 'My lord Haversham, a great speech-maker and publisher of his speeches,' says the duchess of Marlborough, 'and who was become the mouth of the party for any extraordinary alarm, was sent privately by the Tories to the queen to acquaint her with the discovery they pretended to have made, of a terrible design formed by the Whigs, to bring over one of the House of Hanover, and to force this upon her whether she would or not.' Unluckily this very lord 'had been the man, who had moved for the princess Sophia's coming over as a thing necessary for the preservation of the Protestant religion.' His death took place on the 1st of Nov. 1710.

"Browne Willis, in a MS. which Mr. Cole had seen, called lord Haversham a person of mean extraction, whose father, raising himself by merchandize, enabled the son to purchase a baronetage. Macky, in his Memoirs, describes him as a short red-faced man, very eloquent, but very passionate and fiery; a Dissenter by principle, and always turbulent. Dunton commends his penetration and deep knowledge in the affairs of Europe, and adds, 'He is a patriot of a public and discerning spirit, and asserts the rights of the Church of England, without persecuting the dissenters: he has about him all the tenderness of good nature, as well as all the softness of friendship: he carries himself with wonderful conduct and loyalty, and has a quick and generous sense of the miseries of mankind.'" See Park's enlarged edition of lord Orford's Noble Authors, vol. 4. p. 33.

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"The next was the business of Overisch, where, by the conduct of my lord Duke of Marlborough, we had a fair opportunity of putting an end to the war at once. But the Dutch held our hand, and would not let us give the deciding blow. Thus ended your campaign, though it begun with more promising hopes of success than this next I believe will. You had then to deal with an enemy whose councils were distracted, whose troops were broke, and the courage of his army sunk.—From all this give me leave to conclude, that it is neither men nor money, courage nor conduct, that are the only things to carry on a successful confederate war. —Those who command your army, are men of that bravery, and every common soldier hath so much courage, that no equal number of men in the world, I think, can stand before them; but let our supplies be never so full and speedy, let our management be never so great and frugal, yet if it be our misfortune to have allies that are as slow and backward, as we are zealous and forward; that hold our hands, and suffer us not to take any opportunity that offers; that are coming into the field, when we are going into winter quarters; I cannot see what it is we are reasonably to expect.

"The next thing I shall take the liberty to speak to, is the point of Trade. Every one sees how our Merchants go off daily, and how low the trade of this nation at present is. I know, my lords, there is a word we are very fond, of which we call the balance of power; but the Dutch, who are very wise people, have a double view, and take as much care of the balance of trade, as they do of the balance of power; and are as fearful of our power at sea, as of the power of France by land. My lords, the best knowlege of things, is by the causes; It is trade begets wealth, as wealth begets power, and it seems very hard for England, that while the Dutch live at peace under the protection of our arms, we, if we will have any part of trade with them, must have it under the protection of their passes: But it will be much harder, if, after their having the advantage of a trading war, we should make a tradeless peace.

"I know, my Lords, the Dutch generally complain they are very poor; but give me leave to say, I cannot see how they have been out of pocket one shilling since this war; for they gain more by remittances from England, than all the money that goes out of their country to Portugal, Savoy, and the German princes.

"There is one thing more, which I take to be of the greatest importance to us all. It is this I had chiefly in my intention; and with which I shall conclude what I have to say.—But before I come to it, give me leave to take notice of one thing to your lordships. My Lords, it is the happiness of England, and that which ever did, and ever will keep the greatest ministers in awe; that by the law and custom of parliament, the meanest member of either House has undoubted right to debate on any subject, and to speak his thoughts with all freedom, without being liable to be called in question by any person whatever, till the parliament itself hath taken notice of them. This is grounded on the greatest equity and reason, because that which concerns all, should be debated by all: Nor is it possible for a parliament to debate, or come to a clear resolution on any question, or to give advice to her majesty, as they ought, without this freedom. I give good authority to justify what I say; Sir Robert Atkins (fol. 54.) in his treatise of the power and privilege of parliaments, tells us of the case of one Sir Thomas Haxey, in the time of king Richard 2, who having delivered a petition to the king, with which he was displeased, the king sent to the Speaker to know who it was that delivered that petition; by which, says Sir Robert, it is apparent, the king cannot take notice of any thing done in parliament, (he names the House of Commons) but as it is represented to him by the House itself.

"Having said this, give me leave to read to your Lordships a paragraph of her majesty's speech to her last parliament last year. 'My Lords and Gentlemen, we have, by the blessing of God, a fair prospect of this great and desirable end; if we do not disappoint it, by our own unreasonable humour and animosity, the fatal effects of which, we have so narrowly escaped in this session, that it ought to be a sufficient warning against any dangerous experiments for the future.'—I shall not go about to shew the grammatical construction of these words, but chuse rather to say, that as we enjoy many blessings under her majesty's happy government, so I hope we shall have this too, that her majesty will never give ear to any secret and private information; but as it comes to her in a parliamentary way, by the Houses themselves.

"The last thing, my Lords, is that which I take to be of the greatest concernment to us all, both queen and people. I love to speak very plain, and shall do so in this point.—My Lords, I think there can be nothing more for the safety of the queen, for the preservation of our constitution, for the security of the church, and for the advantage of us all; than if the presumptive heir to the crown, according to the Act of Settlement, in the protestant line, should be here amongst us. It is very plain, that nothing can be more for the security of any throne, than to have a number of successors round about it, whose interest is always to defend the possessor from any danger, and prevent any attempt against him, and revenge any injury done him. Is there any man, my Lords, who doubts, that if the duke of Gloucester had been now alive, her majesty had not been more secure than she is? We cannot think of that misfortune without the greatest grief; but yet we are not to neglect our own safety: and though a successor be not the child of the prince, yet is he the child of the queen and the people.—Besides, my lords, the heats and differences which are amongst us make it very necessary that we should have the presumptive heir residing here, the duty and respect we pay her majesty, and the authority of the law,

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can hardly keep us in peace and union amongst ourselves at present; what then may we not fear when these bonds shall ever happen to be broken?—And would it not be a great advantage to the church, for the presumptive heir to be personally acquainted with the right reverend the prelates? Nay, would it not be an advantage to all England; that whenever the successor comes over, he should not bring a flood of foreigners along with him to eat up and devour the good of the land?—I will say no more to your lordships, but conclude with this motion; 'That an humble Address be 'presented to her majesty by this House, that 'her majesty will be graciously pleased to 'invite the presumptive heir to the crown of 'England, according to the acts of parliament 'made for settling the succession of the crown, 'in the protestant line, into this kingdom, to 'reside here.'"*

This motion was backed by several lords, but opposed by a great majority; so that

* Shortly after the delivery of the above Speech, his lordship published the following Vindication of it;

"The Lord HAVERSHAM's Vindication of his Speech in Parliament, Nov. 15, 1705.

"The insults and scandalous reflections that have been made upon me in several late Reviews, though they are beyond all precedent, yet should have been without any notice, had the author of those papers been the only person concerned in them; but being convinced upon enquiry from whence he has both his encouragement and instructions, and being unwilling to be thought guilty by default, or that silence on my part should go for confession, or railing on his part go for reason, I choose rather to appeal from the malicious insinuations, and false suggestions of those papers, to the candid and impartial judgment of every unbiassed reader, than take those advantages which his rashness and impudence, perhaps, have given me.

"I would not have it thought I am entering the lists with such a mean and mercenary prostitute as the author of the Review: I know better the regard due to the peerage of England (though some have forgot it) than to lessen either that or myself to such a degree. But when a person, my equal, excepting a few accidental ornaments and advantages which I do not pretend to, who never yet would give me any answer elsewhere, though more than once provoked to it, has betaken himself to such unusual and unbecoming methods; it is but justice to myself to let him see, that as I covet no man's favour, so I do not fear any man's power so much as to desert my own just defence in a compliment.

"I begin with the reflections made upon my person; and here it looks very unaccountable, how one that has pretended to so great moderation, as the author of the Review, should be carried so much above his avowed principle in a matter he is so very little concerned in. It must certainly be the force of some irresistible temptation, or the occult quality, and malign influence of some ruling star, that warmed and transported this State-Mountebank, when he wrote those papers, to such a degree above his pretended moderation-temper, as to characterize a person he had not the least knowledge of, with as black marks of infamy as he could invent, or durst venture upon: As if for speaking my mind with the duty of a subject, and the freedom of an Englishman, I became every thing that was not *scandalum magnatum*.

"What a monster has one speech made me! He says, 'It is calculated and screwed up to 'a pitch of malecontent and chagrin; as if 'done on purpose to sour the nation, and 'printed with an unpeaceable and mischievous 'meaning: to be designed to keep alive a 'malecontent party; by a mouth bent to noise 'and reflection; by a person malign to the 'settlement, in hopes to raise grounds of cla-'mour; and as one, who has a great many ill 'ends; that it was spoke with freedom that con-'sists not any where with duty, allegiance, truth, 'sense or respect; with expectation to force a 'fortune by railing at his betters, reviling the 'ruler of the people, and accusing the innocent, 'to please and court a party; spoken like So-'lomon's fool, with his eyes in the ends of the 'earth; proposing what is ridiculous and in-'congruous; calculated to revive the heats and 'dying quarrels in the nation, and encourage 'the follies that madmen make use of to ruin 'the country in such cases; by a person, whose 'fancied reputation, to them that did not know 'he had — it, might serve to push on the spe-'cious sham to an extremity, and to biass ho-'nest ignorant people in his favour, &c.'

"What a number of unaccountables (as he calls them) are here! Whence could he furnish himself with such an expence of scandal, or rake together such a load of infamy? But no men charge so furiously as those that are in compact, and think themselves shot-free by having their charm and protection about them. Being then thus unjustly attacked, not so much by this hackney tool, whom I despise, as by a M—— in muscarade, I am compelled to say those things for myself, which, without such provocation, would look vain and boasting.

"This scandalous author, or whoever bid him say so, when he tells the world that I have — my reputation, would have done well to have proved it by instance. I have had the honour to have been employed in some public stations, and entrusted by some of the chief of his party, at a time when they thought themselves in no small danger, and when there was not so good an understanding between us; I appeal to the head of them, whether, at his earnest desire, I did not act the gentleman-part, and serve him faithfully; And though afterwards I had the misfortune to fall under the displeasure of a House of Commons, it is as well known as they are, it was for interposing between them and

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after a debate of four hours the question being put, Whether the princess Sophia should be sent for over to England, or not? The previous question was put, Whether that question should

danger, for too vigorously espousing their cause: And could never have imagined the same way or proceeding in falling upon some, and leaving others, who were equally concerned in the same facts, which I always did, and ever shall think very partial, should be looked upon as unjust, when it was some men's own case, and quite otherwise when it was the case of the E——— of N——m in the business of the Sc—h P———t. It was my differing from some men in this affair, that I believe was my original sin, which is never to be forgiven, because it will never be repented of. But what, though I am so unfortunate as to differ in some things from those, who, in my opinion, sometimes differ from themselves: I might, notwithstanding, both in justice and gratitude, have expected better usage, than to be marked and singled out like a blown deer, to be run down the shortest way by such a foul-mouthed mungrel? If I have not deserved such a return, (as by their own acknowledgements I can shew I have not) those that serve them better hereafter, may expect, if possible, to be used worse.

"The maxim is as known as ancient, It is the office shews the man: Let any instance then of any one single act of partiality, oppression, corruption or injustice, during my being in any public station, be charged upon me: I appeal to the sea-officers, and every common seaman that knew me, whilst I was in the admiralty. I made no after-advantage by serving any body in the commission of accounts; nor was I trusted with any secrets, though I could not sit there without making remarks as well as others; Nor did I ever contrive any clauses for the advantages of the public service whilst out of the ministry, which I forgot when I once got in.

"Had I ever been suspected for holding intelligence with St. Germains, or the French king; had my name been ever used in any French or Scotch Plots, or mentioned in the confession of any dying man; had I, being an Englishman, advised the queen to pass the Act of Security in Scotland, or the removing or laying aside any of the great Scotch Lords whilst they were promoting and endeavouring to bring the succession to bear the two last sessions of the Scotch parliament; or had I, before that, upon the presumptive confidence of my own better judgment, without communicating the matter to any other person, singly advised the passing the Act of Peace and War in Scotland, and endeavoured to shelter myself from that imputation, by persuading the world that others, who knew nothing of it, were as much concerned in that advice as myself; These might have been some tolerable grounds to have justified the pamphleteer's reflections. But to speak inconsistently with duty, allegiance, truth, sense or respect, before such a presence, and not be in the Tower; and if I did not, that the pamphleteer should not be somewhere else, may seem as strange as the railing at my betters, and reviling my ruler would be to force a fortune, by courting a party, who at present are so far from having it in their power to oblige any body by their interest, that it is looked upon by some as a crime to have the honour of so much as the least acquaintance with them. But this author, who writes for bread, and lives by defamation, thinks those, I perceive, who are known to be under no inducement of necessity, govern themselves by his base and mercenary principles.

"It is very wonderful, after all, that a proposal for inviting over the presumptive heir to the crown should expose a man to all this virulent fury: That a person only for mentioning it should be called by the names of Mr. Politicus, Speaking Trumpet, Grating Saw, &c. Whoever have read Great Britain's Union, and the Security of the Hanover Succession considered, will find that matter was thought on many months before the paper called Mercurius Politicus ever appeared. And though the Reviewer is very free in calling this a ridiculous proposal, incongruous and inconsistent with the general good; yet, perhaps, this very person would not have been so very confident, had he seen (as I have) the extract of the princess Sophia's answer, dated November 3, 1705, to the archbishop of Canterbury's letters; in which are these words, viz. "I am ready and willing to comply with whatever can be desired of me by my friends, in case that the parliament think that it is for the good of the kingdom to invite me into England." Some men reading this, I doubt not, will think again. If we only consider what that proposal has produced, it might deserve (one would think) better language. We had several acts of parliament relating to the security of the succession looked into since, and their defects cured; by which it appears, that the succession was not so safe as was in general imagined: A bill for naturalizing the princess Sophia, and her issue, and another to establish a Regency (in case of the queen's demise) sent down to the House of Commons, which those that framed and consented to, thought, no doubt, a security to the succession: And yet there was not the least appearance of the succession's being so much as thought of in parliament, when this proposal was made: So that not to enter into the consideration, how far these expedients will be a security, if they prove, as they are thought, great ones; he that gave the occasion and rise to them, sure, only for that, cannot deserve to be thus treated.

"But I fear there are other reasons that have raised some persons spleen: Some perhaps are angry to have heard it said where it was, That there was so great a favourite as the duke of Buckingham in king James 1, his time, who (as the Spanish Ambassador told his majesty) had besieged him, had enclosed him with his own vassals and servants, and would suffer no one else

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be put? And was carried in the negative:

to have his majesty's ear, or so much as come near his presence, and yet that great man never had half that power and favour, that we see some persons now possessed of.

"They care not to hear of taxes laid upon all court preferments, or of persons being so fat with favour, and great offices, as make them insensible of the pressing necessity a great part of the nation labours under.

"Others do not like it should be said that whenever there is a dispute between a parliament and a minister, either the minister will be too hard for the parliament: and there is an end of your constitution; or the parliament will be too hard for your minister, and there is an end of your minister.

"But for the author of the Review, it is impossible he should ever be hearty for inviting the princess of Hanover hither; even upon the very foot he puts it: For if the presumptive heir ought not to be invited hither (as he says) till the press is restrained by law, that virulent lampoons, memorials, and the like, may not swarm every day in the streets; one in his circumstances would soon be reduced to a starving condition.

"I should have said no more on this last head; having formerly more than once given the world an account, not only of the security to the constitution, but of the advantages the nation would have by the presumptive heir to the crown residing here: Were it not for some extravagant and dangerous expressions of this pamphleteer, (which one would wonder should not have been taken notice of before now in nother manner) He says, he cannot foresee the security of the queen from the heirs being at her elbow: And for fear these dark terms should not be truly understood, but lie hid (as he calls it) like the poison of asps under the tongue; in another place (Rev. Numb. 115, p. 460,) he spits the venom out, and tells the world plainly,——'Such is the corruption of mankind, and the general depravation has spread 'to such a height; Nature has received such a 'universal taint, that jealousies have spread 'into the nearest relations; Fathers have been 'jealous of their own children; and we have 'some instances even of men murdering their 'own flesh and blood on these accounts, besides what we find among the Turks.—— 'And if I should instance very near home, I 'have such authority on my side, as few people 'question.'

"This is such a groundless two-edged scandal, and published at such a conjuncture, that no man, I think, can read without abhorrence.

"The next thing I am charged with, is, a heightening the miscarriages of the war, rendering our allies suspected, and leading the Dutch and Imperialists, as if they had betrayed and abandoned us.

"But the very stating matter of fact is enough to wipe off this scandal. There were two great attempts designed (besides the passing the

however, some lords, who were for inviting the

French lines) this last Campaign worthy the conduct of our general, viz. That on the Mozelle, and that at Overisch. Had either of which succeeded, it had soon put an end to this chargeable war; and that they did not succeed is known to every body: I would then ask any man, to whom are these two disappointments to be imputed? The answer to this question, I doubt not, would clear me from all the malicious insinuations of this insolent scribbler. Is it possible for any man to imagine the duke of Marlborough would have marched the grand army some hundred miles, upon a design he knew he was not strong enough to put in execution, without the assistance of prince Lewis of Baden's army, which he must have depended upon? Can any man think that matter was not first concerted? And if so, whence was it, that when the duke of Marlborough had covered that prince from the French, he was not joined by him as was expected; By which conjunction Saar-Louis, which the French left uncovered, had fallen into our hands, and a free and easy passage opened into France; and for want of which, a very promising design was totally defeated: (And as the Reviewer confesses) our affairs had a bad aspect at the unhappy baulk at the Mozelle.

"Again, in the business of Overisch, did not the Dutch deputies march near three days in company with the duke of Marlborough, and in all that time did they ever make any exception against the design. Yet, when it came to be put in execution, when a fair opportunity offered, and victory in a manner courted us, there not being half the danger and difficulty there, as at Bleinheim, could any arguments persuade them to consent to venture a battle? Have not the letters of the duke of Marlborough and Monsieur A—k—que been made public; and was there not a book called The D——h Politics examined, &c. printed before the parliament met, that carries this matter much higher than ever I did, which I never yet heard was answered? And must I only not be allowed to speak of such things without lying under the lash of a scandalous pen, and looked upon as an enemy to the confederates? But the most wonderful part of all this, is, that those persons, who before were so full of those matters, that they could scarce forbear shewing resentment of the usage the duke of Marlborough met with, have, ever since this was mentioned by me, made it their business to give it quite a different turn. However, let this snarler, or those who employ him, be as angry as they please; when I read the joint Address of both Houses of parliament (which he might have been more ingenious than to have mangled as he has done) and read how earnestly they intreat her majesty, by all proper means to excite the whole confederacy to make early and effectual preparations, and to exert their utmost vigour in the prosecution of the war against France; I must be of opinion, that they had very good

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princess Sophia to come over, entered their Protest;* and though the greatest part of the House of Peers were against this invitation, yet they so far concurred with the tendency of this speech, that they carried it without dividing on the 19th of the same month, the queen again present, That a bill should be brought in, for the better security of her majesty's person and government, and of the Succession of the crown of England, in the protestant line, &c. and at the same time, ordered another bill to be brought in for naturalizing such of the illustrious House of Hanover, as were protestants.†

grounds for what they did, which sufficiently justifies me.

"There is one thing more, which is so very ridiculous, it is scarce worth notice, viz. how this learned critic labours, and is put to it, to bring the business of Barcelona within the construction of what I said. It is so common a rule, that words are to be understood according to their subject matter, there is scarce a school boy who does not know it; And from the beginning to the end of that speech, there is not the least intimation or glance of any thing done in Spain. But it is all one to him whether that be so or not, he never considers the grammatical constructions of words; but, right or wrong, the world is to be told, that I throw black scandals upon, and contradict my lord P——h, the king of Spain's letter, the queen's speech, &c. and prevaricate the fact, that the paper is a libel, and deserves to be burnt by the hangman.

"Thus he has drest up a man of straw of his own, and then lays about him most unmercifully; he might as well as have brought in the Czar of Muscovy, and the king of Sweden's wars within the compass of these words, Thus ended the campaign, as our operations in Catalonia. I could not look towards Barcelona and forget Portugal, from whence I have seen a letter giving an account 'how Monsieur Fagel, 'at the head of 20,000 men, very quietly let 'the Mareschal de Thesse, with 8,000 men, '(which he might have easily cut in pieces) 'march within pistol shot of him, and relieve 'Badajoz; and how kindly he was received 'at home upon his return is well known.'

"I shall say no more, at present, but leave it to the judgment of any indifferent and impartial reader, how far, by that speech, I have pushed on any specious sham to bias the ignorant and honest people in my favour, or how far I have been treated, as any man might expect.

"In short, though no man rejoices more in our successes every where than myself, yet I cannot but remember, that it often happens in war, as in races, where 'sometimes those that 'win a heat, may lose the plate,' which I heartily wish may never be our case.

"And as for those who set this person at work, however they have made a shift, thinking to keep up their reputation with some, which they have lost with others; yet they are so well known by both, as not to be long trusted by either, and whenever it shall happen they have nothing but their own merit and interest to support them, I doubt not but they will find their own reputation as low in the world, as they endeavour to make that of others: And, in the mean time, their present fears, unsteadiness, and mistrust of every body, make them not only very uneasy to themselves, but the very contempt and property of those they depend on.

"There are two other points, which the limits of this paper will but just give me leave to mention, viz. Liberty of speech in parliament, and the present state of affairs in Holland, with relation to the trade, and the expence of the present war: As to the first of these, I should think myself *felo-de-se*, should I go to dispute it: And, for the second, it were very easy for me to shew the advantages the Dutch have over us at this time in the point of commerce. And whenever a just account is given of what remittances, bullion, and money in specie, have been sent to Holland since this war, (which I would be very glad to see) that matter, I am confident, will appear as evident as that the species of our coin lessens daily, whilst that of the Dutch encreases. But it would be very well for England, if no just occasions were given to take further notice of this matter."

* As follows:

"Dissentient; Because, we humbly conceive the having a presumptive heir to the crown residing within the kingdom, would be a great strengthening to her majesty's hands in the administration of the government, a security of her royal person, and the succession to the crown as by law established, in the protestant line. (Signed.) Winchelsea, Jersey, Buckingham, Nottingham, Anglesea, Haversham, Rochester, Abingdon, Howard, Conway, Leigh."

† Bishop Burnet's Account of this Debate is as follows:

"The most important debates that were in this session, began in the House of Lords; the queen being present at them all. The lord Haversham opened the motions of the Tory side: he arraigned the duke of Marlborough's conduct, both on the Moselle and in Brabant, and reflected severely on the Dutch, which he carried so far as to say, that the war cost them nothing; and after he had wandered long in a rambling discourse he came at last to the point which was laid, to be the debate of the day: He said we had declared a Successor to the crown, who was at a great distance from us: while the Pretender was much nearer; and Scotland was armed and ready to receive him; and seemed resolved not to have the same Successor, for whom England had declared: these were threatening dangers that hung over us, and might be near us. He concluded, that he did not see how they could be prevented, and the nation made safe, by any other way, but by inviting the next successor

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Proceedings on the Regency Bill.] Though the invitation of the princess Sophia was rejected, yet a bill for a Regency, intitled, 'A 'Bill for the better security of her majesty's 'person and government and of the succession 'to the crown of England,' was brought in.

to come and live among us. The duke of Buckingham, the earls of Rochester, Nottingham, and Anglesey carried on the debate, with great earnestness: it was urged, that they had sworn to maintain the succession, and by that they were bound to insist on this motion, since there was no means so sure to maintain it, as to have the Successor upon the place, ready to assume and maintain his right: it appeared, through our whole history, that whosoever came first into England, had always carried it: the pretending successor might be in England within three days, whereas it might be three weeks before the declared Successor could come: from thence it was inferred, that the danger was apparent and dreadful, if the Successor should not be brought over: if king Charles had been in Spain, when the late king died, probably that would have prevented all this war, in which we were now engaged. With these Lords, by a strange reverse, all the Tories joined; and by another, and as strange a reverse, all the Whigs joined in opposing it. They thought this matter was to be left wholly to the queen; that it was neither proper nor safe either for the crown, or for the nation, that the heir should not be in an entire dependence on the queen; a rivalry between two courts might throw us into great distractions, and be attended with very ill consequences: the next Successor had expressed a full satisfaction, and rested on the assurances the queen had given her, of her firm adherence to her title, and to the maintaining of it: the nation was prepared for it, by the orders the queen had given to name her in the daily prayers of the Church: great endeavours had been used, to bring the Scotch nation to declare the same Successor. It was true, we still wanted one great security, we had not yet made any provision, for carrying on the government, for maintaining the public quiet, for proclaiming and sending for the Successor; and for keeping things in order, till the Successor should come: it seemed therefore necessary, to make an effectual provision against the disorders, that might happen in such an interval. This was proposed first by myself, and it was seconded by the lord Godolphin, and all the Whigs went into it; and so the question was put upon the other motion, as first made, by a previous division, whether that should be put or not, and was carried in the negative by about three to one. The queen heard the debate, and seemed amazed at the behaviour of some, who, when they had credit with her, and apprehended that such a motion might be made by the Whigs, had possessed her with deep prejudices against it: for they made her apprehend, that when the next Successor should be brought over, she herself would be so eclipsed by it, that she would be much in the Successor's power, and reign only at her or his courtesy: yet these very persons, having now lost their interest in her, and their posts, were driving on that very motion, which they had made her apprehend was the most fatal thing that could befall. This the dutchess of Marlborough told me, but she named no person: and upon it a very black suspicion was taken up, by some, that the proposers of this matter knew, or at least believed, that the queen would not agree to the motion, which way soever it might be brought to her; whether in an Address, or in a Bill; and then they might reckon, that this would give such a jealousy, and create such a misunderstanding between her and the parliament, or rather the whole nation, as would unsettle her whole government, and put all things in disorder. But this was only a suspicion, and more cannot be made of it."

The duchess of Marlborough, in the Account of her own Conduct (p. 160) clears up this matter; she says, "The earls of Rochester and Nottingham, and the other grave men of the party, had not the least hope or the least desire to carry their point; but being well assured, that the queen would never consent to such an invitation, nor pardon her ministers, if they encouraged the design; this was a notable stratagem to ruin them, either with her majesty, or with the nation; for if in compliance with her prejudices they opposed this motion, it was to be hoped it would draw the public odium upon them as declared enemies to the protestant succession. This hopeful scheme, however, did not succeed. The Whigs opposed the invitation, and yet preserved their credit, to the great mortification of the other party. I know that my lord Godolphin, and other great men, were much reflected upon by some well disposed persons, for not laying hold of this opportunity which the Tories put in their hands of more effectually securing the succession of the crown in the house of Hanover. But those of the Whigs whose anger against the minister was raised on this account, little knew how impracticable the project of invitation was, and that the attempt would have only served to make the queen discard her ministry, to the ruin of the common cause of these kingdoms, and of all Europe. I had often tried her majesty upon this subject, and when I found, that she would not hear of the immediate successor's coming over, had pressed her that she would at least invite hither the young prince of Hanover, who was not to be her immediate successor, and that she would let him live here as her son: but her majesty would listen to no proposal of this kind in any shape whatsoever. It was upon this occasion, that the queen gave the first indications of any thing like a real reconcilement to the Whigs. She had been present at the debate in the House of Lords upon the subject of the invitation, and had heard the duke of Buckingham treat her with great dis-

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On the 19th of November, the lord *Wharton* opened the debate in a manner, that charmed the whole House. He had not been present at the former debate, but he said, he was much delighted with what he had heard concerning it. He observed, that he had ever looked on the securing a protestant succession to the crown as that, which secured all our happinesss. He had heard the queen recommend from the throne union and agreement to all her subjects, with a great emotion in his own mind. It was now evident, there was a divinity about her, when she spoke: the cause was certainly supernatural, for we saw the miracle, that was wrought by it: now all were for the protestant succession. It had not been always so. He rejoiced in their conversion, and confessed it was a miracle. He would not, he could not, he ought not to suspect the sincerity of those, who moved for inviting the next successor; yet he could not hinder himself from remembering what had passed in the course of many years, and how men had argued, voted and protested all that while. This confirmed his opinion, that a miracle was now wrought; and that might oblige some to shew their change by an excess of zeal, which he could not but commend, though he did not fully agree to it. After this preamble, he opened the proposition for the Regency in all the branches of it: that regents should be impowered to act in the name of the successor, till he should send over orders: that besides those, whom the parliament should name, the next successor should send over a nomination sealed up, and to be opened, when that accident should happen, of persons who should act in the same capacity with those, who should be named by parliament.

The motion, being thus digested, was agreed to by all the Whigs, and a bill was ordered to be brought in, pursuant to these propositions. But, upon the debate on the heads of the bill, it appeared, that the conversion, which the lord Wharton had so pleasantly magnified, was not so entire as he seemed to suppose. For when a security, that was real and visible, was thus offered, those, who made the other motion, flew off from it. They pretended, that it was, because they could not depart from their first motion: But they were told, that the immediate successor might indeed, during her life, continue in England, yet it was not to be supposed, that her son, the elector, could be always absent from his own dominions, and throw off all care of them, and of the concerns of the empire, in which he bore so great a share. If he should go over for ever so short a time, the accident might happen, in which it was certainly necessary to provide such an expedient as was now offered. This exposed them to much censure; but men engaged in parties are not easily put out of countenance. It was resolved, that the regents should be seven, and no more; and they were fixed by the posts they were in. The archbishop of Canterbury, the lord-chancellor, lord-keeper, lord-treasurer, lord-president, lord-privy-seal, lord-high-admiral, and the lord-chief-justice of the Queen's-bench for the time being, were named for that high trust. The Tories struggled hard, that the lord-treasurer should not be one, only to shew their spleen against the lord Godolphin; but their motion was rejected with scorn; for it seemed ridiculous in a time, when there might be much occasion for money, to exclude an officer from that high trust, who alone could furnish them with it, or direct them how to be furnished. The Tories moved likewise, that the lord-mayor of London should be one; but that was also rejected; for the design of the act was, that the government should be carried on by those, who should be at that time in the conduct and secret of affairs, and were persons nominated by the queen; whereas the lord-mayor was chosen by the city, and had no practice in business. These regents were required to proclaim the next successor, and to give orders for the like proclamation over England and Ireland. The next successor might send a triplicate of the persons named by her or him; one of these was to be deposited with the archbishop of Canterbury, another with the lord-keeper, and a third with his own minister residing at this court; upon the producing whereof, the persons nominated were to join with the regents, and to act in equality with them. The last parliament, even though dissolved, was to be immediately brought together, and impowered to continue sitting for six months; and thus things were to be kept in order, till the successor should either come in person, or send over his orders.

The Tories made some opposition to every branch of the act; but, in that of the parliament's sitting, the opposition was more remarkable. The earl of Rochester moved, That the parliament and the regents should be limited to pass no act of repeal of any part of the act of Uniformity; and in his positive way said, that if this was not agreed to, he should still think the church was in danger, notwithstanding what

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respect; urging as an argument for inviting over the princess Sophia, that the queen might live till she did not know what she did, and be like a child in the hands of others, and a great deal to that effect. Such rude treatment from the Tories, and the zeal and success of the Whigs in opposing a motion so extremely disagreeable to her, occasioned her to write to me in the following terms: 'I believe dear Mrs. Freeman 'and I shall not disagree, as we have formerly 'done, for I am sensible of the services those 'people have done me, that you have a good 'opinion of, and will countenance them, and 'am thoroughly convinced of the malice and 'insolence of them, that you have always been 'speaking against.' And at this time it was, that the queen authorized the lord Godolphin to give the utmost assurances to the chief men of the Whigs that she would put herself, and her affairs, into such hands as they should approve, and would do every thing possible for the security of the protestant religion."

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they had heard from the throne in the beginning of the session. It was objected to this, that, if the regal power was in the regents, and if the parliament was likewise a legal one, then by the constitution the whole legislature was in them, and that could not be limited; for they could repeal any law, that limited them: But the judges were of opinion, that the power of regents might be limited; so that, as the design of moving this might be to have a new pretence to possess the clergy that there was a secret design against the church, which might break out at such a time, the Lords gave way to it, though they thought it unreasonable, and proposed with no good design. The Tories, upon the yielding this to them, proposed a great many more limitations; such as the restraining the regents from consenting to a repeal of the act for triennial parliaments; the acts for trials in cases of treason, and some others, and so extravagant were they in their design of making the act appear ridiculous, that they proposed as a limitation, that they should not have power to repeal the act of Succession. All these were rejected with scorn and indignation; the Lords seeing by this their error in yielding to that proposed by the earl of Rochester. The bill passed in the House of Lords, but the Tories protested against it.

There was not any thing in the management of the Tories, by which they suffered more in their reputation than by this. They hoped, that the motion for the invitation would have cleared them of all suspicion of inclinations towards the pretended prince of Wales, and would have reconciled the body of the nation to them, and turned them against all who should oppose it. The management was so ill-disguised, that it was visible they intended only to provoke the queen by it, hoping that the provocation might go so far, that in the sequel all their designs might be brought about, though by a method, that seemed quite contrary to them, and destructive of them.

The bill lay long in the House of Commons, by a secret management, that was against it. The Tories there likewise proposed, on the 14th of December, that the next successor should be brought over; which was moved by sir Thomas Hanmer, seconded by Mr. Benson, and supported by Mr. Bromley, and others. This was opposed by the Whigs, who moved, That the Chairman leave the chair; which was carried in the affirmative without dividing. The secret management was from Hanover. Some indigent persons, and others employed by the Tories, had studied to infuse jealousies of the queen and her ministers into the electoress Sophia. She was then seventy-five, but had still so much vivacity, that as she was the most knowing and the most entertaining woman of the age, so she seemed willing to change her scene, and to come and shine here in England. They prevailed with her to write a letter to the archbishop of Canterbury, intimating her readiness to come over, if the queen and parliament should desire it. This was made public by some intriguing persons in that court, and a colour was soon found to keep some Whigs from agreeing to the act. In the act, which first settled the Succession, one limitation had been, that, when the crown should pass into that House, no man, who had either place or pension, should be capable of sitting in the House of Commons. The clause in this bill, which impowered either the parliament, which should be current at the queen's death, or that which had sat last, though dissolved, to sit for six months, or till the successor should dissolve it, seemed contrary to this incapacitating clause in the former act. Great exceptions were taken to this by some zealous Whigs, who were so possessed with the notion of a self-denying bill, as necessary to preserve public liberty from the practices of a designing court, that for some weeks there was cause to fear, not only the loss of the bill, but a breach among the Whigs upon this head. Much pains were taken, and with good effect, to heal this. It was at last settled; and a great many offices were enumerated; and it was declared, that every man, who held any of these, was thereby incapacitated from sitting in the House of Commons; and every member of the House, who accepted of any other office, was, upon that, excluded the House, and a new Writ was to go out to those, whom he represented, to chuse again; but it was left free to them to chuse him, or any other, as they pleased. It was desired by those, who pressed this matter most, that it should take place only in the next reign. But, to remove all jealousy, the ministers were content, that these clauses should take place immediately, upon the dissolution of the present parliament. And, when the House of Commons sent up these self-denying clauses to the Lords, they added to them a repeal of that clause in the first act of Succession, by which the succeeding princes were limited to govern by the advice of the council, and by which all the privy-counsellors were to be obliged to sign their advices; which was impracticable, since it was visible, that no man would be a privy-counsellor on those terms. The Lords added the repeal of this clause to the amendments sent up by the Commons; and they made some alterations in the clause inserted by the Commons, their lordships excluding only the commissioners of the prize-office, and all such new officers, as the court might create for the time to come. Two conferences were held about these respective amendments between the two houses; and, the report of the latter conference being made in the House of Commons, on the 15th of February, it occasioned a long and warm debate. The court-party endeavoured to shew the injustice of excluding from the house such as were actually performing services to the nation: urging, that all counties and corporations of England have, by their charters, liberty to elect such, as they think best qualified to represent them in parliament; they should, in great measure, be deprived of that liberty by this exclusion of several officers,

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military and civil; who, by reason of the great estates they have in those corporations, seldom fail, and have more right than any others to be chosen. And that the exclusion of those officers would very much abate the noble ardour, which several gentlemen shewed at this juncture, to serve the nation in this just and necessary war, since they could not but look upon it as a disgrace, to be made incapable of serving likewise their country in parliament. The opposite party, which chiefly consisted of the Tories, with whom several of the Whigs joined on this occasion, alledged, the ill use which a bad prince might make of a parliament in which there should be many of his creatures; such are generally all those, who have employments immediately depending on the crown. The other party, foreseeing that they should lose the question, agreed to the postponing of three of the Lords' amendments, having already agreed to one of them. But, three days after, being reinforced by the return of those, who, for some time, had voted on the contrary side, the Lords' amendments were approved, with some few alterations; to which the Lords agreed on the 19th of February.

Complaints of the Allies rejected.] Nov. 22. Lord Haversham moved, That the Miscarriage of the last campaign, occasioned by the Allies, might be enquired into. In the course of this debate, the errors, committed in the conduct of the war this year, were complained of; the blame, indeed, of the miscarriage of the design on the Moselle was laid on the prince of Baden, and the errors in Brabant on the States and their deputies. But, as the party said, they could not judge of these things, nor be able to lay before the queen those advices, that might be fit for them to offer to her, unless they were made acquainted with the whole series of these affairs; therefore they proposed, that by an Address they might pray the queen to communicate to them all that she knew concerning those transactions during the last campaign; for they reckoned, that, if all particulars should be laid before them, they should find somewhat in the duke of Marlborough's conduct, on which a censure might be fixed. To this it was answered, that, if a complaint was brought against any of the queen's subjects, it would be reasonable for them to enquire into it by all proper ways; but the House of Lords could not pretend to examine or to censure the conduct of the queen's Allies, who were not subject to them, nor could be heard to justify themselves: and it was somewhat extraordinary, if they should pass a censure, or make a complaint of them. It was one of the trusts, which was lodged with the government, to manage all treaties and alliances, so that our commerce with our allies was wholly in the crown. Allies might sometimes fail, being not able to perform what they undertook; they are subject to errors and accidents, and are sometimes ill served. The entering into that matter was not at all proper for the House, unless it was intended to run into rash and indiscreet censures, on design to provoke the Allies, and by that means to weaken, if not break the alliance. The queen would, no doubt, endeavour to redress whatever was amiss, and that must be trusted to her conduct. Thus this attempt, which was chiefly levelled against the duke of Marlborough, not only failed, but it happened upon this, as upon other occasions, that it was turned against those who made it.

Address to maintain a good Correspondence with the Allies.] On the 27th of November, the two Houses attended the queen with the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and the Commons, in parliament assembled, being justly alarmed by the many artifices which the emissaries of France have put in practice this last year, in order to raise jealousies, and create misunderstandings, amongst the Allies engaged in this necessary war, for the support of the liberties of Europe; and being apprehensive lest such malicious insinuations, if they should pass unobserved, might in time so far take place, as to abate the spirit, and slacken the zeal, of the confederacy; do most humbly beseech your majesty to use all possible endeavours to preserve a good correspondence amongst all the confederates, and, in a most particular manner, to maintain and cultivate a strict friendship with the States-general of the United Provinces.—And we most humbly entreat your majesty, That as, in your own way of acting, you have set before your Allies a great and noble example; so you would be graciously pleased, by all proper means, to excite the whole confederacy to make early and effectual preparations, and to exert their utmost vigour in the prosecution of the war against France."

The Queen's Answer.] Her majesty's Answer was to this effect:

"My Lords and Gentlemen; your joining in this Address, is a very particular satisfaction to me.—The opinion of both Houses of Parliament will always be of the greatest weight with me. I shall readily comply with your desire; and I make no question but it will meet with a just regard from all our Allies."

The Acts against the Scots repealed.] The queen having laid before the two Houses the Addresses of the Scots parliament against any progress in the Treaty of Union, till the Act, which declared them aliens by such a day, should be repealed; the Tories, upon this occasion, to make themselves popular, after they had failed in many attempts, resolved to promote this, apprehending, that the Whigs, who had first moved for that act, would be for maintaining their own work; but they seemed to be much surprised, when, after they had prefaced their motions in this matter with such declarations of their intentions for the public good, that shewed they expected opposition and a debate; the Whigs not only agreed to this, but carried the matter further to the other act relating to their manufacture and trade. This passed very unanimously in both Houses;

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and, by this means, way was made for opening a Treaty, as soon as the session should come to an end. All the northern parts of England, that had been disturbed for some years with apprehensions of a war with Scotland, which would certainly be mischievous to them, whatever the end of it might prove, were much delighted with the prospect of peace and union with their neighbours.

The Queen's Speech concerning the Affairs of Spain.] Nov. 27. The nation having been long in suspence about the success of the earl of Peterborough's Expedition, when the account of it was at last brought by captain Norris in the Britannia, with the lord Shannon and brigadier Stanhope, the queen went to the House of Peers and made the following speech to both Houses:

"My Lords and Gentlemen: Having newly received letters from the king of Spain and the earl of Peterborough, which contain a very particular account of our great and happy successes in Catalonia, and shewing, at the same time, the reasonableness of their being immediately supported; I look upon this to be a matter of so much consequence in itself, and so agreeable to you, that I have ordered a copy of the king of Spain's letter to myself; a letter from the Junta of the military arm of Catalonia; and another letter from the city of Vich; as also an extract of the earl of Peterborough's letter to me, to be communicated to both Houses of Parliament.—I recommend the consideration of them to you, gentlemen of the House of Commons, very particularly, as the speediest way to restore the monarchy of Spain to the House of Austria. And therefore I assure myself, you will enable me to prosecute the advantages we have gained, in the most effectual manner, and to improve the opportunity, which God Almighty is pleased to afford us, of putting a prosperous end to the present war.—My Lords and Gentlemen: I must not lose this occasion of desiring you to give as much dispatch to the matters before you, as the nature of them will allow, that so our preparations for the next year may be early, which cannot fail of being of great advantage to us."

The Commons being returned to their House, Mr. Secretary Hedges laid before them the Letters mentioned in the queen's speech; and, two days after, they voted the granting of several sums, and, in particular, 250,000*l.* for her majesty's proportion of the charge of prosecuting the successes already gained by king Charles 3, for the recovery of the monarchy of Spain to the House of Austria.

A Rider offered to the Bill for the Security of the Succession.] Dec. 3. An Act for the better Security of her majesty's person and government, and of the Succession to the crown of England in the Protestant line was read a third time.

A Rider was offered to be added to the Bill, to restrain the Lords Justices from giving the royal assent to any bill for repealing or altering, the act 31 Caroli Secundi, called, 'The 'Habeas Corpus Act,' the act called, 'The 'Toleration Act,' that called, 'The Triennial 'Act,' and the 'Act for regulating Trials in 'Cases of Treason.'—And the same being read, after debate, the question was put, whether this Rider shall be read a second time?—It was resolved in the Negative.

Protests thereon.] "Dissentient' Because we conceive, these acts mentioned in the foregoing Rider, are as necessary for the preservation of the Protestant religion, and the rights and liberties of the subjects of England, as the act of Uniformity, in the opinion of the House itself, is for the preservation of the church of England. (Signed) Beaufort, Scarsdale, Haversham, Northampton, Guilford, H. London, Carnarvon, Thanet, Anglesea, Rochester, Granville, Guernsey, Buckingham, Weymouth, Nottingham, North and Grey, G. Bath and Wells."

Then, after further debate, the question was put, Whether this bill shall pass? It was resolved in the affirmative.

"Dissentient'

"1. Because, it having been our humble opinion, that nothing can so firmly secure the succession to this crown in the Protestant line, as the presumptive heir's residing in this kingdom, and our proposal of an humble Address to her majesty for that purpose having been refused, this whole bill also being founded on the said heir's being absent at the time of the queen's demise, we fear the bill may prove not only ineffectual to these good purposes for which it is designed, but dangerous also in preventing the said heir's coming hither, in the mean time, by the opinion some have of the successor's being so well secured, that no such further care needs to be taken about it.

"2. Because every one of the 7 Lords Justices, constituted by this bill, is therein made so far independent of the very successor, as not to be displaced by the said successor in that instrument, which is to be deposited here for the addition of more Lords Justices; the reason for which addition we think equally strong, by enabling also the successor to exclude, by the said instrument, any of those seven justices: which said justices may otherwise be found (when, perhaps, it will be too late) invested with too great a power, if they can ever be supposed capable of ill employing it.

"3. Which last objection we conceive to be of more weight, since it was refused by the House to restrain those future Lords Justices from repealing the following acts, viz. An Act for preventing dangers which may happen from Popish recusants; an act for the more effectual preserving the king's person and government, by disabling of papists from sitting in either house of parliament; the act for the better securing the liberty of the subject, and for prevention of imprisonment beyond the seas; the act for the further security of his majesty's person, and the succession of the crown in the Protestant line, and for extinguishing the hopes of the pretended prince of Wales, all other pre-

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tenders, and their open and secret abettors; the act for exempting their majesties Protestant subjects, dissenting from the church of England, from the penalties of certain laws; the act for the frequent meeting and calling of parliaments; and the act for regulating of trials in cases of treason and misprision of treason; which laws we account the very pillars of our constitution, and that consequently no subjects whatsoever ought to be entrusted with the power of passing any act to repeal them, during the time, when it will be impossible for the successor to know any thing of the matter, or so much as that the said successor is become our sovereign.

4. "Because in this very bill, which entrusts the Lords Justices with a power of giving the royal assent to laws of so dangerous a nature, and with all the executive power, yet, we conceive, they are restrained from revoking the least military commission, or disbanding any officer of the army, though never so much deserving to be suspected by them.

"Lastly, We apprehend the great danger her majesty may be exposed to, since whatever is insufficient to secure the succession in the Protestant line, and may render it liable to difficulties or uncertainties, must also encourage ill designs against her sacred life; which may be thought the only obstacle in the way of such wicked persons, who may flatter themselves with the hopes of confusions after it.—(Signed) Beaufort, Carnarvon, Denbigh, Buckingham, Anglesea, Haversham, Nottingham, Thanet.

"We dissent for the four last reasons, Granville, North and Grey, Guernsey."

Debate in the House of Lords concerning the Danger of the Church.] Dec. 6. After the Act for the Regency had passed, the lord Halifax remembering what the earl of Rochester had said concerning the danger the Church might be in, moved, that a day might be appointed, to enquire into these dangers, about which so many tragical stories had been published of late. Accordingly, this day was appointed for this purpose, when

The Earl of *Rochester** began the debate, (the Queen being present) and told their lordships, "That the subject-matter of it was of so tender a nature, that it was difficult to speak to it; for her majesty had expressed herself so conclusively in her speech, that it seemed to be to contradict the queen, to speak freely: but in regard, that the ministers might be supposed to make the speeches, he desired, that what he had said might not be offensive to the queen, for whom he had all the affection and respect that could be. He urged, that ministers might mistake, and not always act for the public good; and instanced in the ministry of Portugal, where the king was our friend, but the ministry seemed to be otherwise, insomuch that the al-

* "The second son of lord chancellor Clarendon, created earl of Rochester by Charles the Second; lord treasurer and a knight of the garter by James the Second; lord lieutenant of Ireland by William the Third; and president of the council by queen Anne. He died in 1711.

"Dunton, his contemporary, says he was set in the conspicuous place of lord lieutenant of Ireland, on purpose to guide the people into the path of love and obedience to their God and king. 'He is a person,' he adds, 'of extraordinary sense and very close thinking, a refined politician, and was ever a firm adherer to the royal line: but his zeal for the church is the most remarkable quality in him, and so perfumes the actions of his whole life, that it makes him whatever is brave, generous, merciful, just, and good,' &c. Macky describes him as 'one who had all the improvement of education and experience, with a good capacity;' and says he was, when very young, employed by Charles the Second in foreign negociations. He opposed king William's coming to the throne, and generally thwarted the measures of that court, till the king, to gain him and his party, made him lord lieutenant of Ireland, and when he was thrown out of office, gave him a very considerable pension during his reign. 'He is easily wound up to a passion,' observes the same writer, 'which is the reason why he often loses himself in the debates of the House of Peers: and the opposite party know so well how to attack him, as to make his great stock of knowledge fail him. He is, notwithstanding, one of the finest men in England for interest, especially the church party, and is very zealous for his friends.' Burnet, a more accredited judge, speaks of lord Rochester as a man of great parts and incorrupt practices, though of austere manners. Before he rose to high posts, he was thought the smoothest man in the court; and during all the dispute concerning his father, managed so dexterously, that no resentments were excited against him.

"Dryden penned a very caustic epitaph upon the earl of Rochester's being dismissed from the treasury in 1687; which thus begins:

"Here lies a creature of indulgent fate,
From Tory Hyde rais'd to a chit of state;
In chariot now, Elisha-like, he's hurl'd
To th' upper empty regions of the world:
The airy thing cuts through the yielding sky,
And as it goes does into atoms fly:
While we on earth see with no small delight,
The bird of prey turn'd to a paper kite."

"The same versatile poet's previous character of lord Rochester should, however, be opposed to this libel:

"Hushai, the friend of David in distress,
In public storms of manly steadfastness,
By foreign treaties he inform'd his youth,
And join'd experience to his native truth.
His frugal care supply'd the wanting throne,
Frugal for that, but bounteous of his own."
Absalom and Achitophel, part 1.

See Park's enlarged edition of lord Orford's Noble Authors, vol. 4, p. 41.

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liance was of no benefit to us: and added, that the duke of Buckingham and archbishop Land were heartily in the interest of king Charles 1, but did many things that very much injured him. The full expressions in the queen's speech he compared to the law in king Charles the second's time, to make it treason to call the king a papist; for which very reason, he said, he always thought him so. The reasons he gave for his fear of the church's danger, arose from these three causes: first, the Act of Security in Scotland: secondly, the heir of the house of Hanover not being sent for over: thirdly, the not passing the Occasional Bill. Upon the first he said, the Presbyterian church in Scotland was fully established without a toleration, that to arm that people was to give them a power to invade England, where they had a powerful party for their friends, who never wanted the will to destroy the church That he thought the heir of the crown ought to be present among us, in order to be fully acquainted with us and our constitution, and thereby enabled to prevent any evil designs upon the church and state: That the Occasional Bill was in itself so reasonable, and the church's request in it so small, that the industry in opposing it gave the greater ground for suspicion."

When that noble lord had done, the House sate still a quarter of an hour, expecting some body would second him; but no body else speaking on that side,

The Lord *Halifax* * said, "That he having moved for the present debate, it might be expected that he should speak to it. The Act of Security in Scotland, was a national thing, wholly foreign to church-affairs; that it was not to pass, but to prevent immediate war, which the Scots seemed to have resolved upon; that in case it should ever be made use of, it would be but as other wars with that nation had been, in former days, wherein England was always able to defend itself, and would sure, hereafter,

* "Charles Montague, earl of Halifax, was the fourth son of the hon. George Montague, a younger son of the earl of Manchester. He was born in 1661, educated in Westminster-school, where he is said to have recommended himself to Dr. Busby by his felicity in extemporary epigrams, and removed in 1682 to Trinity College, Cambridge, where he commenced an acquaintance with the great Newton, which continued through his life, and was at last attested by a legacy. He intended to have taken orders; but afterwards altering his purpose, purchased for 1,500*l.* the place of one of the clerks of the council. In 1691, being a member of the House of Commons, he argued warmly in favour of a law to grant the assistance of counsel in trials for high treason; and in the midst of his speech, falling into some confusion, he is said, by his biographers, to have drawn a dexterous argument from the circumstance, precisely in the same way lord Shaftesbury has been stated to do.

"After this he rose fast into honours and employments, being appointed, in 1691, a commissioner of the treasury, and a privy-counsellor. In 1694 he became chancellor of the exchequer; and the next year engaged in the arduous attempt of recoining the silver currency, which was in two years happily completed. In 1696 he projected the scheme for a general fund, which was the precurser of the sinking fund established by sir Robert Walpole; and after an inquiry concerning a grant of Irish crown lands in 1698, it was determined by a vote of the Commons that he 'had deserved his majesty's favour.' In the same year he was advanced to the first commission of the treasury, and appointed one of the regency in the king's absence. The next year he was made auditor of the exchequer, and the year after created baron of Halifax, in the county of York. He was, however, impeached by the Commons for advising his majesty to sign the Partition Treaty; but the Articles were dismissed by the Lords. At the accession of queen Anne he was removed from the council, and in the first parliament of her reign was again attacked by the Commons, and again escaped by the protection of the Lords. In 1706 he proposed and negociated the Union with Scotland; and moved the bill for the naturalization of the house of Hanover, and securing the Protestant succession; after which he was appointed to carry the ensigns of the order of the garter to the electoral court. At the queen's death he was nominated one of the lords regent; and by George the First was made viscount Sunbury, earl of Halifax, a knight of the garter, first commissioner of the treasury, and lord lieutenant of the county of Surrey. 'More,' says Dr. Johnson, 'was not to be 'had, and this he kept but a little while.' His lordship died on May 19, 1715, in the fifty-fourth year of his age. A namby-pamby ode by Philips was dedicated to his memory.

"Dunton says he was affable, easy, and obliging, candid and ingenious, and that all these qualities were well tempered. Steele in a dedicatory epistle flatters him with saying, 'Your lordship's patronage has produced those 'arts, which before shunned the commerce of the 'world, into the service of life; and it is to you 'we owe that the man of wit has turned himself to be a man of business. Your own studies have been diverted from being the highest 'ornament to the highest use to mankind; and 'the capacities that would have rendered you 'the greatest poet of your age, have to the advantage of Great Britain been employed in 'pursuits which have made you the most able 'patriot.' Smith was not less laudatory in the dedication to his Phædra and Hippolitus: nor was Philips in his epistolary verses. Tickell added much in a similar strain of panegyric, which drew forth the following remarks from Dr. Johnson: 'Of him who from a poet became a patron of poets, it will be readily believed that the works would not miss of cele-

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be more able to do it, inasmuch as the strength of England was increased much more than that of Scotland; so that unless France should come into the quarrel, whose hands were already too full to do it, it would signify little; but blessed be God, things were so well compromised with the Scots, and their former heat so much abated, that there was no reason to doubt of an amicable issue of that difference: as to the house of Hanover, he said, that was a danger of but eight days standing; for he durst say a fortnight ago, no body made the absence of the princess Sophia, a danger to the church; and as for her absence upon the queen's death, that was now so well to be provided for by the act for Lords Justices, that he thought no evil could possibly happen to the church before her arrival. That he wondered the house of Hanover should be now esteemed such a security to the church; whereas, when the laws were made for the security of that succession, it was generally reckoned a hardship upon the church: and a clergyman, in a company of convocation-men, had openly called her an unbaptized Lutheran; the truth of which he could prove. As to the Occasional-Bill, he said, that matter had been canvassed already, and it was then the opinion of that house that it would not prove of any advantage and security to the church, but rather the contrary. That, upon the whole, there had been times in their memory, wherein the church might be said to be in danger. That king Charles 2, was a Roman Catholic; at least, his brother thought fit to declare it after his death, and the successor, who had the management of all affairs, was known to be such; and yet the church thought herself then secure; and those patriots, who stood up in its defence, and endeavoured to prevent the evils which might ensue from a popish successor, were discountenanced and punished. Nay (added his lordship) when that successor came to the throne, and that the church was very apparently in the greatest danger by the High-commission Court, and otherwise, we were then indeed generally alarmed; but we know who sat in that court, and went large steps in the work then on foot *. That, soon after the succession of king William to the crown, the cry of the Church Danger began, and was continued all his reign, but with what ground his lordship was yet unacquainted with. That upon her majesty's happy succession, for some time the complaint was silent; but that, when she was pleased to make some alterations in her ministry, it was immediately revived, and ever since continued: and so his lordship concluded, that the church was now in no danger."

The Bishop of *London* (Dr. Compton) † coming into the House just as these last words were

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'bration. Lord Halifax was, as Pope says, '"fed with soft dedications;"* for Tickell affirms that no dedicator was unrewarded. Yet 'to charge all unmerited praise with the guilt 'of flattery, and to suppose that the encomiast 'always knows and feels the falsehood of his 'assertions, is surely to discover great ignorance 'of human nature and human life. Very near 'to admiration is the wish to admire.'

"'Considered as a poet,' says Cibber, 'his 'lordship makes a less considerable figure than 'the earl of Dorset: there is a languor in his 'verses which seems to indicate that he was 'not born with a poetical genius. That he was 'a lover of the Muses there is not the least 'doubt, as we find him patronizing the poets 'so warmly; but there is some difference be-'tween a propensity to poetry and a power of 'excelling in it.' Dr. Anderson seems to concur with the judgment of Cibber, when he determines that lord Halifax can only be ranked with Stepney and Walsh, as he is associated in the works of the Minor Poets, since he makes a less considerable figure than Dorset, or even than Sedley and Hopkins. Dr. Johnson proceeds so far as to assert, 'It would now be esteemed 'no honour, by a contributor to the monthly 'bundles of verses, to be told that in strains 'either familiar or solemn he sings like Mon-'tague:' and this appreciation of his lordship's poetic merit will not perhaps be found to fall much short of the general estimate." Lord Orford's Noble Authors. Park's enlarged edition, vol. 4, p. 60.

"* Proud as Apollo on his forked hill
Sat full-blown Bufo, puff'd by every quill;
Fed with soft dedication all day long,
Horace and he went hand in hand in song."

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* The earl of Rochester was one of the ecclesiastical commissioners in king James 2d's time.

† "Henry Compton, youngest son of Spencer, earl of Northampton, who was killed in the civil war, was educated at Queen's College in Oxford. Having staid about three years at the university, he made the usual tour of Europe. After the Restoration, he became a cornet in the royal regiment of guards, commanded by Aubrey de Vere, earl of Oxford: but a military life not suiting his disposition, he entered into holy orders, and was in a few years advanced to the bishopric of Oxford, and afterwards to that of London. He strongly expected to be promoted to the see of Canterbury; and was greatly disappointed when it was given to Dr. Sancroft, but more, when Dr. Tillotson was preferred to it. His learning was superficial, but his great diligence in discharging the duties of his function was truly exemplary. He is said to have been 'an humble, modest, 'generous, and good natured man; but weak, 'wilful, much in the power of others, and 'strangely wedded to a party.' He was emphatically called The Protestant Bishop, for the noble stand he made in defence of the rights of the church in this reign, when spirit and resolution were much more necessary than learning. He patronized converts from popery, and was a generous friend to the French Protestants who fled hither from the persecution of Lewis XIV. He appeared in arms at Nottingham, a little be-

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delivered, 'immediately took up the lord Halifax; giving for his reason of the church's being in danger, that profaneness and irreligion were so rife among us, and the licentiousness of the press so intolerable, that a most vile book had been, lately published by a clergyman in his diocese (meaning Mr. Hickeringhill) whom he had endeavoured to punish; but that he had such subterfuges in the quirks of the law, that he could not come at him: and that sermons were preached, wherein rebellion was countenanced, and resistance to the higher powers encouraged.

The Bishop of *Salisbury* * replied, That his lordship ought to have been the last man to complain of that sermon (meaning Mr. Benjamin Hoadley's before the lord-mayor) for, if the doctrine of that sermon was not good, he did not know what defence his lordship could make for his appearing in arms at Nottingham. Then the bishop, proceeding to the question in debate, instanced in a piece of French history in the reign of Henry the third (which, he said, had been much in vogue of late in a neighbouring house) in whose time the catholics set up the same cry of the church's danger from the Huguenots, and forced the king to comply with them; but that, their power thereby becoming great, they turned it upon the king himself, and he found he should be thrust into a

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fore the Revolution, and declared his readiness to fight for the prince of Orange. He was a true son and brave champion of the church, and a most munificent benefactor to it. Whatever imperfections there might be in his character, he was allowed to be much a gentleman, and no less a Christian. Ob. 7 July, 1713, Æt. 81." Granger.

"This prelate lies in Fulham cemetery, with the following brief memorial:

H. LONDON.

ΕΙ ΜΗ ΕΝ ΤΩ ΣΤΑΥΡΩ

MDCCXIII.

"Being part of 'God forbid that I should glory, save in the cross of Jesus Christ.' His literary works were, a translation, in 1667, of "The Life of Donna Olympia Maldaelini, who governed Innocent X. and the church;" the "Jesuits Intrigues, with the private Instructions of that Society to their Emissaries," 1669; "A Treatise on the Holy Communion," 1677; "A Letter to his Clergy concerning Baptism, the Lord's Supper, Catechism," 1679, and other letters to them. It was nobly said by him, when a person told his lordship that a certain clergyman had spoken contemptuously of him, his diocesan, 'I am glad of it, for he has 'given me an opportunity of setting you a good 'example in forgiving him.'" Noble's Continuation of Granger.

* "Gilbert Burnet, bishop of Salisbury, was born of a respectable and antient family at Edinburgh, 18th September, 1643. He was educated in the college of Aberdeen, and under the watchful eye of his father, he early acquired habits of industry and application which attended him through life, and never till the infirmities of age compelled him, discontinued the custom of rising every morning at four o'clock to prosecute his studies with ardour and effect. At the age of 18 he was admitted expectant preacher, but he refused the offer of a benefice, and in 1663, two years after his father's death, he visited Oxford and Cambridge for six months, and soon after passed over into Holland, where he applied to the study of Hebrew, and by an indiscriminate and friendly intercourse with men of every religious persuasion, he fixed his principles of universal benevolence and toleration, without regard to tribe or sect. On his return to Scotland in 1665, he was ordained, and afterwards appointed divinity professor at Glasgow; but his benevolent attempts to reconcile the contending parties in ecclesiastical affairs rendered him unpopular and suspected. He afterwards engaged himself to write the History of the dukes of Hamilton, and recommended himself so much to the earl of Lauderdale and to the king's ministers in London, by his moderation and his superior abilities, that he was several times offered a Scotch bishopric, which he as often declined. His interest with the court however was of short duration, he became suspected, and was treated with harshness by the king, who ordered his name to be erased from the list of chaplains. To avoid the enmity of Lauderdale, he determined to settle in London, where he was appointed preacher of the Rolls chapel, and lecturer of St. Clements. His two first volumes of the History of the Reformation about this time commanded the public admiration, and received as an honourable testimony of its merits, the thanks of both Houses of Parliament. About this time likewise he became acquainted with the profligate Rochester, and by his conversation he reclaimed him, and had the happiness to see him atone for his debaucheries by a most penitential death. Upon the change of administration in 1682, Burnet's conduct gave offence, and his attendance on lord Russel at his trial created so much indignation at court, that he was by the king's command, discharged from his offices at the Rolls' chapel and at St. Clements. His character was so well established, that, in his travels in France and Italy, he was received with every mark of attention and respect by the French king, and by pope Innocent 2. The accession of James 2, to the throne, formed a new era in the life of Burnet. Unwilling to return to his native country, he resolved to settle in Holland, and the attention which was paid to him by the prince and princess of Orange, proved so offensive to the English monarch, that he caused his ambassador to demand his banishment from the States, a tyrannical interference which was rejected, as he was under the protection of the laws as a naturalized subject and the husband of a Dutch lady. Some time after he accompanied a

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monastery, if he did not speedily crush them, and therefore stabbed the duke of Guise to the heart. To the reasons, which the noble lord who began the debate, gave for the church's danger, he replied, that, as to the Scots affairs, he was particularly acquainted with them, and therefore he would venture to speak with the more assurance. That the Scots Kirk being established

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chaplain the prince on his invasion of England, and so zealously active did he shew himself in his cause, both by his pamphlet and his pulpit eloquence, that William, a few days after he was seated on the throne, advanced him to the see of Salisbury. In his new office he was moderate but dignified, though his assertions in a Pastoral Letter, that William's title to the crown was founded on conquest, proved highly disagreeable to both Houses, and the offensive paper was publicly burnt by the hands of the hangman. He resided in his diocese the best part of his time, and though he was engaged as preceptor to the duke of Gloucester, yet he devoted himself as much to improve the comforts of his clergy, by augmenting poor livings, as to advance the interests of religion by his writings. He died 17th March, 1715, in his 72nd year, and was buried at St. James's Clerkenwell. He was thrice married, first to lady Margaret Kennedy, daughter of earl Cassilis, about 1670, secondly, to a Dutch lady of family and fortune, who died of the small pox 1698, and thirdly, in the same year, to Mrs. Berkeley, a woman of excellent character. Besides his works already mentioned, and a third volume of the Reformation, &c. he wrote the History of his own Times,—an excellent treatise on the Pastoral care,—an Exposition of the 39 Articles,—and Sermons. His son Thomas Burnet published an account of his Life annexed to the History of his own Times, and the marquis of Halifax has drawn his character with great judgment and impartiality." Lempriere.

The following is Burnet's Character, as drawn by the marquis of Halifax. The copy from which this is printed in the Bishop's Life, p. 77, was taken from one given to the Bishop, in the Marquis's own hand-writing:

"Dr. Burnet is like all men, who are above the ordinary level, seldom spoke of in a mean, he must either be railed at or admired; he has a swiftness of imagination, that no other man comes up to; and as our nature hardly allows us to have enough of any thing, without having too much, he cannot at all times so hold in his thoughts, but that at some time they may run away with him; as it is hard for a vessel, that is brim-full, when in motion, not to run over; and therefore the variety of matter, that he ever carries about him, may throw out more, than an unkind critic would allow of. His first thoughts may sometimes require more digestion, not from a defect in his judgment, but from the abundance of his fancy, which furnishes too fast for him. His friends love him too well, to see small faults; or if they do, think that his greater talents give him a privilege of straying from the strict rules of caution, and exempt him from the ordinary rules of censure. He produces so fast, that what is well in his writings calls for admiration, and what is incorrect deserves an excuse; he may in some things require grains of allowance, which those only can deny him, who are unknown or unjust to him. He is not quicker in discerning other men's faults, than he is in forgiving them; so ready, or rather glad to acknowledge his own, that from blemishes they become ornaments. All the repeated provocations of his indecent adversaries, have had no other effect, than the setting his good-nature in so much a better light; since his anger never yet went farther than to pity them. That heat, which in most other men raises sharpness and satire, in him glows into warmth for his friends, and compassion for those in want and misery. As dull men have quick eyes, in discerning the smaller faults of those, that nature has made superior to them, they do not miss one blot he makes; and being beholden only to their barrenness for their discretion, they fall upon the errors which arise out of his abundance; and by a mistake, into which their malice betrays them, they think that by finding a mote in his eye, they hide the beams that are in their own. His quickness makes writing so easy a thing to him, that his spirits are neither wasted nor soured by it: The soil is not forced, every thing grows, and brings forth without pangs; which distinguishes as much what he does, from that which smells of the lamp, as a good palate will discern between fruit which comes from a rich mould, and that which tastes of the uncleanly pains that have been bestowed upon it. He makes many enemies, by setting an ill-natured example of living, which they are not inclined to follow. His indifference for preferment, his contempt not only of splendour, but of all unnecessary plenty, his degrading himself into the lowest and most painful duties of his calling; are such unprelatical qualities, that let him be never so orthodox in other things, in these he must be a dissenter. Virtues of such a stamp are so many heresies, in the opinion of those divines, who have softened the primitive injunctions, so as to make them suit better with the present frailty of mankind. No wonder then, if they are angry, since it is in their own defence, or that from a principle of self-preservation they should endeavour to suppress a man, whose parts are a shame, and whose life is a scandal to them."

The following short view of Dr. Burnet, in his domestic life, as drawn by his son Thomas, may not be unacceptable to the reader:

"His time, the only treasure of which he seemed covetous, was employed in one regular and uniform manner. His constant health permitted him to be an early riser, he was seldom in bed later than five o'clock in the morning during the summer, or than six in the winter.

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without a toleration, was an unfair allegation; for there needed no law for toleration, where there was no law to inhibit. The Episcopalians were not forbid to worship God their own way, being only excluded from livings; and that there were at that time fourteen episcopal meeting-houses in Edinburgh, as open as the churches, and as freely resorted to; in many

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Private meditation took up the two first hours and the last half-hour of the day. His first and last appearance to his family was, at the morning and evening prayers, which were always read by himself, though his chaplains were present. He drank his tea in company with his children, and took that opportunity of instructing them in religion; he went through the Old and New Testament with them three times, giving his own comment upon some portion of it for an hour every morning. When this was over, he retired to his study, where he seldom spent less than six, often more than eight hours in a day. The rest of his time was taken up with business, exercise and necessary rest, or bestowed on friendly visits and chearful meals. As he kept an open table, in which there was plenty without luxury, so no man was more pleased with innocent mirth there, no man encouraged it more, or had a larger fund of entertainment to contribute towards it. His equipage, like his table, was decent and plain; and all his expences denoted a temper generous, but not profuse. The episcopal palace, when he came to Salisbury, was thought one of the worst; and when he died, was one of the best in England.

"The character I have given his wives, will scarce make it an addition to his, that he was a most affectionate husband. His tender care of the first, during a course of sickness, that lasted for many years; and his fond love to the other two, and the deep concern he expressed for their loss, were no more than their just due, from one of his humanity, gratitude and discernment. His love to his children, perhaps accompanied with too much indulgence, was not exerted in laying up for them a hoard of wealth, out of the revenues of the church, but in giving them a noble education; though the charge of it was wholly maintained out of his private fortune. At seven years old, he entered his sons into Latin, giving each of them a distinct tutor, who had a salary of 40*l.* a year, which was never lessened on account of any prebend the Bishop gave him. After five or six years had perfected his sons in the learned languages, he sent them to the University; the eldest a gentleman commoner to Trinity College in Cambridge, the other two commoners to Merton College in Oxford; where, besides the College Tutor, they had a private one, to assist them in their learning, and to overlook their behaviour. In the year 1706, he sent them abroad for two years to finish their studies at Leyden; from whence two of them took a tour through Germany, Switzerland and Italy. The eldest and youngest, by their own choice, were bred to the law, and the second to divinity.

"In his friendships, our author was warm, open-hearted and constant: from those I have taken the liberty to mention, the reader will perceive, that they were formed upon the most prudent choice, and I cannot find an instance of any one friend he ever lost, but by death. It is a common, perhaps a just observation, That a hearty friend is apt to be as hearty an enemy; yet this rule did not hold in our author. For though his station, his principles, but above all his stedfast adherence to the Hanover succession, raised him many enemies; yet he no sooner had it in his power, to have taken severe revenges on them, than he endeavoured, by the kindest good offices, to repay all their injuries, and overcome them, by returning good for evil. I have already given some instances of this nature here, and many more will occur to the reader in the history.

"The Bishop was a kind and bountiful master to his servants, whom he never changed, but with regret and through necessity: Friendly and obliging to all in employment under him, and peculiarly happy in the choice of them; especially in that of the steward to the bishopric and his courts, William Wastefield, esq. (a gentleman of a plentiful fortune, at the time of his accepting this post) and in that of his domestic steward, Mr. Mackney. These were both men of approved worth and integrity, firmly attached to his interests, and were treated by him, as they well deserved, with friendship and confidence. To them, I must appeal, for the truth of many facts here related, particularly those concerning his labours in his diocese; from them I likewise had an account of his extensive charities.

"This was indeed a principal article of his expence, impossible now to fix as to all the particulars; our author being as secret as he was liberal, in those charities, which he distributed with his own hands: Yet the greatest part of them could not be hid from the persons who were entrusted with the management of his affairs. His gifts, for the augmentation of small livings, of 100*l.* at a time; his constant pensions to poor clergymen, to their widows, to students for their education at the Universities, and to industrious families that were struggling with the world; the frequent sums given by him, towards the repairs or building of churches and vicarage-houses; his liberal contribution to all public collections, to the support of charity-schools (one of which for fifty children at Salisbury was wholly maintained by him), and the many apprentices, at different times put out to trades at his charge, were charities that could not be wholly concealed. Nor were his alms confined to one nation, sect or party; want and merit in the object were the only measures of his liberality. Thus when Mr. Martin (minister of Compton Chamberlein) for refusing to take the oaths to the government, soon after the Revolution, had

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of which the English liturgy was used, but that in several of them the queen was not prayed for. And the bill for giving patrons liberty of conferring their benefices on clerks episcopally ordained would have passed (at least, king William had allowed it) if they would have put in a clause to oblige them to take the oath to the government; but, upon offering that clause, the person, that solicited it, let it drop. That, if the lord, who had mentioned the Act of Security, had looked two years backwards, he might have found another law, which seemed much more to his purpose; namely, the Act for confirming Presbytery, 1 Annæ; but his lordship was a minister of state, when that act passed, and so perhaps advised it.—As to the argument of the Hanover family, it was not observed, that the bishop offered any thing remarkable; and, for the Occasional Conformity bill, he said, it had been there already sufficiently argued, and he was glad they were rid of it: but, as to what a noble prelate had advanced, he owned, that the church would always be subject to the enmity of profaneness and irreligion: that the devil would have his agents in the world, be the government never so careful; but he hoped he might say, that irreligion and profaneness were not now at a higher pitch than usually: that he hoped quite the contrary, and thought the Society set up for Reformation in London, and other cities, had contributed considerably to the suppressing of vice. He was sure the Corporation for the Propagation of the Gospel, had done a great deal towards instructing men in religion, by giving great numbers of books in practical divinity; by erecting libraries in country parishes, by sending over many able divines to the foreign plantations, erecting libraries there for their use, and setting up schools to breed up the children in Christian knowledge; that to his knowledge 1,200*l.* had been expended last year in books to these purposes, all collected by voluntary contributions; but in truth very little of it from those who appeared so wonderfully zealous for the church. That the press was indeed become very licentious, and sermons were preached wherein very strange expressions were published. That he would read some of them to their lordships, and then pulling out Tilly's and Mudder's Sermons, he read some paragraphs: these, said he, were what were preached at Oxford, and these are the men picked out for public occasions: I must remark that both these gentlemen are of a House where a noble peer makes his residence, when he honours that University with his presence.

Then the Archbishop of *York* (Dr. Sharp) * stood up and said, He apprehended danger

forfeited his prebend in the church of Sarum; the Bishop, out of his own income, paid him the yearly value of it during his life. His usual allowance for charity was 500*l.* a year, which he often exceeded; particularly in the two years that he was preceptor to the duke of Gloucester, in which time this article amounted to 2,100*l.* In a word, no object of Christian compassion ever came within his knowledge, without receiving a proportionable relief. He looked upon himself, with regard to his episcopal revenue, as a mere trustee for the church, bound to expend the whole, in the maintenance of a decent figure suitable to his station, in hospitality, and in acts of charity. And he had so faithfully balanced this account, that at his death no more of the income of his bishopric remained to his family, than what was barely sufficient for the payment of his debts."

* "The pious and learned Dr. Sharp, archbishop of York, was a native of Bradford in Yorkshire, and educated at Christ's College, Cambridge, where he made very considerable progress in literature; but more attached to botany and chymistry than the mathematics, he chiefly studied those branches of science. A tedious ague rendered him hypochondriac; but recovering, he was appointed domestic chaplain and tutor to four sons of sir Heneage Finch, attorney-general, which led to his future promotion. Sir Heneage obtained the highest office in the law, and as lord chancellor, recommended his friend Sharp to Charles 2, and procured for him the archdeaconry of Berkshire; to that office his patron added a prebendal stall at Norwich, and the rectory of St. Bartholomew, near the Exchange, London. The profits of those enabling him to marry, he left the chancellor's house, where he had resided five years; and the rectory of St. Giles's in the Fields becoming vacant soon after, (where he had been curate to the deceased rector,) it was given to him. Dr. Sharp enjoyed the friendship of the most eminent divines, but that of Dr. Tillotson was procured by one of those singular circumstances which often mark the lives of eminent men. His father was a dry salter, as was Mr. Joshua Tillotson, uncle of the latter: they dealt together. The son and nephew had only to know, to esteem each other. The lectureship of St. Lawrence was given to Sharp, and he received his doctor's degree; this was followed by the accession of the deanery of Norwich. Before the death of Charles 2, to whom he had been chaplain, he wrote the address of that city and grand jury; and attended the coronation of James 2, which monarch he soon offended by his refutation of the idle pretensions of the Church of Rome to be the only visible Catholic one. Bishop Compton, his diocesan, was ordered to suspend him, and was himself suspended for refusing so to do. Dr. Sharp read his notes to Chancellor Jefferies, who endeavoured to screen him; but it was judged proper he should retire, and not preach until leave was given. He modestly acquiesced, and removed to Norwich, amusing himself there with forming a collection of coins, chiefly British, Anglo-Saxon, or English. Recalled, he returned with joy, but refused to obey the ecclesiastical commissioners. After the arrival of William 3, he was appointed to preach before him, was named one of the re-

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from the increase of dissenters, and particularly from the many academies set up by them, and moved, that the judges might be consulted what laws were in force against such seminaries, and by what means they might be suppressed.

The Lord *Wharton* * spoke next, and moved, That the judges might be consulted about the means of suppressing schools and seminaries held by nonjurors, in one of which a noble Lord of that House had both his sons educated:

Upon which the Archbishop stood up again and said, He supposed he was the person meant, and therefore he must explain that matter. He said his two sons were taught by

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visers of the liturgy, and offered the vacant mitre of one of the deprived prelates, but this he nobly refused. Dr. Tillotson at length proposed, and the king acceded to his wish, that Dr. Sharp should succeed Dr. Lamplugh in the see of York; and that prelate dying July 5, 1691, he was consecrated and appointed. It is a remarkable circumstance, that neither of the above primates should previously have been a bishop. Queen Ann made him lord almoner, a privy counsellor, and a commissioner for the Union. He presided at York for more than twenty years, equally admired and beloved. Piety and virtue seemed matured in him; every thing like malice, envy, and detraction, were absolutely unknown to him. Elegance and ease characterized all his motions. He died at Bath, February 1713-14, without an enemy. York received his highly respected remains. By Elizabeth, youngest daughter of William Palmer, of Winthorp in Lincolnshire, esq. he left a family who justly gloried in so good a parent. His Sermons, in several volumes, have been collected and published." Noble's Continuation of Granger, 74.

* "Thomas marquis of Wharton was son of Philip lord Wharton, imprisoned by Charles 2, during whose life he sat in the House of Commons, with his relation, Mr. Hampden, (son of the patriot,) as representative for Buckinghamshire. "A presbyterian in politics, he was an atheist in religion." William, who found him at the head of a party in the House of Commons, and the avowed enemy of the Stuarts, gave him the office of comptroller of the houshold, made him a privy counsellor, and chief justice in Eyre, south of Trent; but being entreated to raise him to the premiership, he always firmly refused. The same boldness distinguished him in the House of Peers, after his father's death, which had marked his conduct in the lower House. On the queen's accession he was dismissed, but she afterwards named him a commissioner for the Union; created him earl of Wharton, in 1706, and viscount Winchenden, in the county of Buckingham; and, in 1708, appointed him Lord Lieutenant of Ireland; but recalled him in 1710. It was he who moved for an address to the queen, to use her influence to expel the son of James 2, from the court of Lorrain; and to prevent his residence in the dominions of any of her allies, with which she reluctantly complied. George 1, made him lord privy seal, named him one of the privy council, and created him marquis of Wharton and Malmsbury in England; and marquis of Catherlough, earl of Rathfarnham, and baron Trim, in Ireland. He died April 12, 1715, aged 66. Never were excellent abilities more abused than by this peer. He did not attempt to disguise but even gloried in vice. He defied its effects, either as to his interest, or to his constitution; oaths, falsities, and profaneness of every kind were familiar to him. He exceeded the profligacy of the youngest men; yet, at an advanced age he had the appearance of one. His avarice kept pace with his profligacy: he was venal to excess. No impression could be made upon him; he behaved with the same familiarity to the man whom he injured, as to one who expected his patronage. To majesty, though he owed so much to his sovereigns, he acted as if he had been opposing his relation, the usurper, Cromwell. In fine, the strength of his constitution, the vigour of his mind, his great wealth, and his high honours, were made subservient to very unworthy purposes. By his first marriage with Ann, daughter and co-heir of sir Henry Lee, of Ditchley, in Oxfordshire, bart. he had no child; but by Lucy, daughter and heir of Adam Loftus, baron Loftus, he had Philip, created duke of Wharton, so famed for his eccentricities; and two daughters, Jane and Lucy. Mackay describes 'the marquis of Wharton as 'one of the completest gentlemen in England: 'of a very clear understanding and manly ex'pression, with abundance of wit; brave in his 'person, much of a libertine, of a middle sta'ture, and fair complexion.'" Noble's Continuation of Granger, 40.

"He was a complete statesman, a principal promoter of the Revolution: zealous for the Hanover settlement; of great sagacity, elocution and spirit." Bolton's Extinct Peerage, p. 302.

"A Poem to the marquis's memory was printed in Dodsley's Collection, vol. 5, and contains, among many other encomiums, the following tribute to his patriotism:

"Not bribes nor threatnings could his zeal abate
To serve his country, and avert her fate.
Firm to her laws and liberties he stood,
Submitting private views to public good.
Who could obsequious with the current swim,
Whigs might be called, but Tories were to him:
Parties or persons he no longer knew
When swerving once, from honest, just and true.
Oft has he stemm'd the rage of impious times,
When patriot virtues bore the brand of crimes.
To check proud tyrants born, and factions awe,
But most devoted to good kings and law."

"Lord Shaftesbury drew a less partial estimate of the marquis in 1709, when writing to Mr. Molesworth. "Your character of lord Wharton is very generous: I am very glad to hear so

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Mr. Ellis, a sober, virtuous man, and a man of letters, and who had qualified himself according to law when they were sent to him; but when the Abjuration-Oath was enjoined, that, it seems, he refused it, which as soon as he was apprized of, he took his sons from him.

The Lord *Wharton* having made a reply to this, went on, and said, That although he had been born and bred a Dissenter, yet he soon conformed to the church, when he grew up, and became acquainted with its doctrine and discipline; that he was now firmly resolved, by God's blessing, always to continue in that church, and would go as far in defending it as any man: Wherefore if he were now sensible that it was in any danger, he would be heartily ready in providing remedies against it; but that, after all the cry and expectations they were screwed up to, upon hearing wherein those dangers consisted, it appeared just as he expected, namely, that it was only repeating The Memorial, which pamphlet he had carefully read over, but could learn nothing from it, except that the d—— of B———, the e—— of R———, the earl of N———,* were out of place. What these B's, R's, and N's meant he could not tell; perhaps there might be some charm in them for the church's security: But if those letters meant some noble peers there present, he remembered very well, that some of them sat in the High-commissioned Court, and then made no complaints of the church's danger; but now that we had a queen, who was herself a real lover of the church, and had given such encouragement and bountiful tokens of her affection for it, we must be amused with the Church's Danger: But he concluded with being of opinion, that the church was in no danger.

The Bishop of *Ely* (Dr. Patrick),† stood up, and moved, That the Judges also might be consulted what power the queen had in visiting the Universities, complaining of the heat and passion of the gentlemen there; which they inculcated into their pupils, who brought the same fury with them to the parishes, when they came abroad, to the great disturbance of public charity; that at the election at Cambridge it was shameful to see a hundred or more young students, encouraged in hollowing like schoolboys and porters, and crying, No Fanatic, No Occasional Conformity, against two worthy gentlemen that stood candidates. Then he complained of the undutifulness of the clergy to their bishops, and the difficulty they had to govern them regularly.

The Bishop of *Litchfield and Coventry* (Dr. Hough),* made the same complaint. He spoke

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well of him. If ever I expected any public good where virtue was wholly sunk, it was in his character: the most mysterious of any, in my account, for this reason. But I have seen many proofs of this monstrous compound in him, of the very best and worst." See lord Orford's Noble Authors, Park's edition, vol. 4, p. 66.

* Buckingham, Rochester, Nottingham.

† "Simon Patrick, a learned prelate, son of a mercer at Gainsborough, Lincolnshire, where he was born 8th of Sep. 1726. He was educated at Queen's college, Cambridge, of which he became fellow, and of which in 1661, he was elected master, against Sparrow, appointed by royal mandamus. His opponent, supported by power, prevailed, whilst he himself retired from Cambridge, and became rector of St. Paul's Covent Garden, where he continued an active parish priest during the whole of the plague. He took his degree of D. D. as a member of Christ-church college, Oxford, 1666, and was made chaplain to the king. In 1672 he was made prebendary of Westminster, and in 1679 dean of Peterborough. During the reign of James 2, he shewed himself an active advocate for the protestant cause, and though flattered and courted by the king, was steady and sincere in his principles. At the Revolution his abilities were employed in settling the affairs of the church, and in reviewing the liturgy. In 1689 he was made bishop of Chichester, two years after translated to Ely, where he died 31st of May, 1707, aged 80. This worthy prelate, so highly commended by Burnet, wrote Sermons—Tracts against Popery—Commentaries on the Scriptures, 3 vols. folio, which with Lowth on the prophets, Arnold on the apocrypha, and Whitby on the new testament, contain a regularly continued commentary on the bible." Lempriere.

* "John Hough, bishop of Worcester, is celebrated for his opposition when president of Magdalen college, Oxford, to the arbitrary proceedings of James 2. He was born in Middlesex 1650, and after receiving his education at Birmingham, entered at Magdalen college, 1669, where he became fellow. At the breaking of the Popish Plot, he was improperly suspected, and his papers were examined, but he did not lose his popularity, and he attended his patron the duke of Ormond to Ireland, and at his return 1685, he obtained a prebend at Worcester. In 1687 he was elected president of his college by the fellows, who thus rejected the arbitrary mandamus of James in favour of Anthony Farmer, but he was soon after expelled by the king's commissioners, and Parker bishop of Oxford placed in his room. During this struggle with a court and with a popish party, Hough behaved with great spirit but becoming moderation and dignity, and at the approach of William of Orange, the college was restored to its rights, and the president to his office. In 1690 William nominated this faithful champion of protestantism to the see of Oxford, and in 1699 he was translated to Litchfield. On Tenison's death he through modesty declined the primacy, but two years after, 1717, accepted the see of Worcester, where he continued upwards of 26 years. He was a liberal benefactor, and repaired with becoming magnificence the palaces of the sees to which he was promoted, at the expence, it is

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of the opprobious names the clergy gave their bishops, and the calumnies they laid on them, as if they were in a plot to destroy the church, and had compounded to be the last of their order, and when the plot was ripe, to resign their bishoprics, and accept a pension for life. He alledged, that the church was as well-governed as it had at any time been; challenged any body to charge the bishops with any omission of their duty, or any action wherein they strained or injured any body. Then he spoke of the honour he had to suffer in a good cause, and thought that might have protected his reputation from the calumny of being an enemy to the church.

The Bishop of *Bath* and *Wells* (Dr. Hooper),* also spoke, and complained of the terms of the High-church and the Low-church; that it was an invidious distinction, tending to set us at enmity, that by high church people were made to believe a man inclined to popery, or, at least, one that endeavoured to carry church-power beyond our constitution, which he thought was great injustice, the gentlemen that bore that character meaning nothing more, than to keep up the just dignity and discipline of the church. Neither did he believe, that the others called low-church, had any designs of lowering or levelling it with Presbytery, as was on the other hand maliciously suggested.

The Duke of *Leeds** stood up, and said, he apprehended the church was in danger, and could

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said, of no less than 7,000*l.* This worthy, and venerable, prelate died 8th March 1743, in his 93d year, and the 53d of his episcopate." Lempriere.

"This intrepid and excellent prelate thus addressed the commissioners whom king James the second sent to Magdalen college, Oxon, to impose a catholic fellow upon that learned and venerable society: 'My lords, you say your 'commission gives you authority to change and 'alter our statutes, and to make new ones, as 'you think fit: now, my lords, we have taken 'an oath, not only to observe our statutes (lay-'ing his hand upon the book of the statutes of 'the college), but to admit of no new ones, or 'alterations in these. This must be my be-'haviour here: I must admit of no alteration 'from them, and by the grace of God I never 'will.' The bishop was as amiable and excellent in private as he was upright and spirited in public life: His servant having one day let fall a very fine barometer belonging to him, which he had caused to be brought into his drawing-room to shew to his company, the glass broke and the quicksilver flew about the floor; the bishop, turning round to his guests, said with a smile, 'I protest I never saw the 'quicksilver so low in all my life.'" Seward's Anecdotes, vol. 2, p. 320.

* "George Hooper was born at Grimley, Worcestershire, about 1640, and educated at Westminster school, from whence he went to Christ-church as student, 1656. Highly distinguished as a scholar, he, in 1672, was made chaplain to Morley, bishop of Winchester, and soon after to Sheldon, the primate, who gave him the rectory of Lambeth, and the precentorship of Exeter. In 1677 he became D. D. and the same year was made almoner to the princess of Orange, whom he attended in Holland. He refused in 1680 the divinity professorship at Oxford, and in 1691 was made dean of Canterbury. In 1701 he was offered the primacy of Ireland by lord Rochester, the viceroy; and soon after Anne's accession, he was nominated bishop of St. Asaph, and half a year after, removed to Bath and Wells, where he continued to preside for 24 years. He died at Barkley, Somersetshire, 1727, and was buried in the cathedral of Wells. Besides three sermons, he published various tracts on theological and other subjects,—a Latin tract on divorce—an Inquiry into the state of the ancient measures, the Attic, Roman, and especially the Jewish, with an appendix concerning our old English money and measures of content, 1721. A beautiful edition of his works appeared at Oxford in 1757, folio." Lempriere.

* "Thomas Osborne, first duke of Leeds, was great grandson to Edward Osborne, who in the reign of Henry the 8th was put apprentice to sir William Hewet, a merchant of considerable eminence, then residing on London bridge. It happened that his master's only daughter fell from the arms of her maid into the Thames, and must inevitably have perished, had it not been for the heroism of young Osborne, who plunged into the river and brought her safe to shore. As a recompence for this act of magnanimity, sir William bestowed on the courageous youth his daughter and his fortune; which procured him the civic honours of sheriff in 1575, and lord mayor in 1582; when he was knighted at Westminster. He served in parliament for the city of London in 1585, and died in 1591. This anecdote, though irregular in point of time, can hardly be thought irrelevant to the present publication; since it forms the basis of a column to what Mr. Burke has happily termed 'the Corinthian 'capital of polished society.'

"Sir Thomas Osborne, from adhering to the royal interest, and co-operating with others to restore Charles the second, was by that king made treasurer of the navy 1671, lord high treasurer of England 1673, baron of Kiveton and viscount Latimer 1673, viscount Dumblain and earl of Danby 1674, and a knight of the garter 1677. On the accession of king William the third he was constituted president of the council, and lord lieutenant of the West-riding of Yorkshire. In 1689 he was advanced to the title of marquis of Carmarthen; and in 1694 was created duke of Leeds. In 1695 he was impeached by the House of Commons for receiving money for promoting the charters of the East India Company; but the parliament being prorogued by king William, a few days afterward, there was no prosecution carried on against him. In the reign of queen Anne he

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not be safe without the act against Occasional Conformity, and that the queen had, in discourse with him, declared herself of that opinion.

The Lord *Somers** recapitulated all the arguments on both sides, added his own judgment, and ended with a declaration, that the nation was happy under a most wise and just administration, wherein the public money was justly applied, the treasury kept in a most regular method, and thereby the public credit in the highest esteem, the armies and fleets were

distinguished himself at the trial of Dr. Sacheverell; and on that occasion, spoke with great freedom concerning the Revolution, which he had signally assisted in bringing about. He died in 1712, at the age of eighty." Lord Orford's Noble Authors, Park's edit. vol. 4, p. 46.

* To the short account of lord Somers, which will be found in vol. 5, p. 42, it may not be unacceptable to the reader to add the character of this great man, as drawn by Mr. Addison and also by Dr. Swift:

Prodesse quàm Conspici. Lord Somers's motto.

"Useful rather than conspicuous."

"It often happens, that extirpating the love of glory, which is observed to take the deepest root in noble minds, tears up several virtues with it, and that suppressing the desire of fame is apt to reduce men to a state of indolence and supineness. But when, without any incentive of vanity, a person of great abilities is zealous for the good of mankind; and as solicitous for the concealment, as the performance of illustrious actions: we may be sure, that he has something more than ordinary in his composition, and has a heart filled with goodness and magnanimity.

"There is not perhaps, in all history, a greater instance of this temper of mind, than what appeared in that excellent person, whose motto I have placed at the head of this paper. He had worn himself out in his application to such studies as made him useful or ornamental to the world, in concerting schemes for the welfare of his country, and in prosecuting such measures as were necessary for making those schemes effectual: but all this was done with a view to the public good that should rise out of these generous endeavours, and not to the fame which should accrue to himself. Let the reputation of the action fall where it would; so his country reaped the benefit of it, he was satisfied. As this turn of mind threw off in a great measure the oppositions of envy and competition, it enabled him to gain the most vain and impracticable into his designs, and to bring about several great events for the safety and advantage of the public, which must have died in their birth, had he been as desirous of appearing beneficial to mankind, as of being so.

"As he was admitted into the secret and most retired thoughts and counsels of his royal master king William, a great share in the plan of the Protestant succession is universally ascribed to him. And if he did not entirely project the Union of the two kingdoms, and the Bill of Regency, which seem to have been the only methods in human policy for securing to us so inestimable a blessing, there is none who will deny him to have been the chief conductor in both these glorious works. For posterity are obliged to allow him that praise after his death, which he industriously declined while he was living. His life indeed seems to have been prolonged beyond its natural term, under those indispositions which hung upon the latter part of it, that he might have the satisfaction of seeing the happy settlement take place, which he had proposed to himself as the principal end of all his public labours. Nor was it a small addition to his happiness, that by this means he saw those who had been always his most intimate friends, and who had concerted with him such measures for the guaranty of the Protestant succession, as drew upon them the displeasure of men who were averse to it, advanced to the highest posts of trust and honour under his present majesty. I believe there are none of these patriots, who will think it a derogation from their merit to have it said, that they received many lights and advantages from their intimacy with my lord Somers: who had such a general knowledge of affairs, and so tender a concern for his friends, that, whatever station they were in, they usually applied to him for his advice in every perplexity of business, and in affairs of the greatest difficulty.

"His life was, in every part of it, set off with that graceful modesty and reserve, which made his virtues more beautiful, the more they were cast in such agreeable shades.

"His religion was sincere, not ostentatious; and such as inspired him with an universal benevolence towards all his fellow subjects, not with bitterness against any part of them. He shewed his firm adherence to it as modelled by our national constitution, and was constant to its offices of devotion, both in public and in his family. He appeared a champion for it with great reputation in the cause of the seven bishops, at a time when the Church was really in danger. To which we may add, that he held a strict friendship and correspondence with the great archbishop Tillotson, being acted by the same spirit of candour and moderation; and moved rather with pity than indignation towards the persons of those, who differed from him in the unessential parts of Christianity.

"His great humanity appeared in the minutest circumstances of his conversation. You found it in the benevolence of his aspect, the complacency of his behaviour, and the tone of his voice. His great application to the severer studies of the law had not infected his temper with any thing positive or litigious. He did not know what it was to wrangle on indifferent points, to triumph in the superiority of his un-

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supplied, and the success of her majesty's arms gave the nation greater honour and reputation, than had been known, and that we had a fair prospect of bringing the war to a happy con-

derstanding, or to be supercilious on the side of truth. He joined the greatest delicacy of good breeding to the greatest strength of reason. By approving the sentiments of a person, with whom he conversed, in such particulars as were just, he won him over from those points in which he was mistaken; and had so agreeable a way of conveying knowledge, that whoever conferred with him grew the wiser, without perceiving that he had been instructed. We may probably ascribe to this masterly and engaging manner of conversation, the great esteem which he had gained with the late queen, while she pursued those measures which had carried the British nation to the highest pitch of glory; notwithstanding she had entertained many unreasonable prejudices against him, before she was acquainted with his personal worth and behaviour.

"As in his political capacity we have before seen how much he contributed to the establishment of the Protestant interest, and the good of his native country, he was always true to these great ends. His character was uniform and consistent with itself, and his whole conduct of a piece. His principles were founded in reason, and supported by virtue; and therefore did not lie at the mercy of ambition, avarice, or resentment. His notions were no less steady and unshaken, than just and upright. In a word, he concluded his course among the same well-chosen friendships and alliances, with which he began it.

"This great man was not more conspicuous as a patriot and a statesman, than as a person of universal knowledge and learning. As by dividing his time between the public scenes of business, and the private retirements of life, he took care to keep up both the great and good man; so by the same means he accomplished himself not only in the knowledge of men and things, but in the skill of the most refined arts and sciences. That unwearied diligence, which followed him through all the stages of his life, gave him such a thorough insight into the laws of the land, that he passed for one of the greatest masters of his profession, at his first appearance in it. Though he made a regular progress through the several honours of the Long Robe, he was always looked upon as one who deserved a superior station to that he was possessed of; until he arrived at the highest dignity to which those studies could advance him.

"He enjoyed in the highest perfection two talents, which do not often meet in the same person, the greatest strength of good sense, and the most exquisite taste of politeness. Without the first, learning is but an incumbrance; and without the last, is ungraceful. My lord Somers was master of these two qualifications in so eminent a degree, that all the parts of knowledge appeared in him with such an additional strength and beauty, as they want in the possession of others. If he delivered his opinion of a piece of poetry, a statue, or a picture, there was something so just and delicate in his observations, as naturally produced pleasure and assent in those who heard him.

"His solidity and elegance, improved by the reading of the finest authors both of the learned and modern languages, discovered itself in all his productions. His oratory was masculine and persuasive, free from every thing trivial and affected. His stile in writing was chaste and pure, but at the same time full of spirit and politeness; and fit to convey the most intricate business to the understanding of the reader, with the utmost clearness and perspicuity. And here it is to be lamented, that this extraordinary person, out of his natural aversion to vain glory, wrote several pieces as well as performed several actions, which he did not assume the honour of: though at the same time so many works of this nature have appeared, which every one has ascribed to him, that I believe no author of the greatest eminence would deny my lord Somers to have been the best writer of the age in which he lived.

"This noble lord, for the great extent of his knowledge and capacity, has been often compared with the lord Verulam, who had also been chancellor of England. But the conduct of these extraordinary persons, under the same circumstances, was vastly different. They were both impeached by a House of Commons. One of them, as he had given just occasion for it, sunk under it; and was reduced to such an abject submission, as very much diminished the lustre of so exalted a character; but my lord Somers was too well fortified in his integrity to fear the impotence of an attempt upon his reputation: and though his accusers would gladly have dropped their impeachment, he was instant with them for the prosecution of it, and would not let that matter rest until it was brought to an issue. For the same virtue and greatness of mind, which gave him a disregard of fame, made him impatient of an undeserved reproach.

"There is no question but this wonderful man will make one of the most distinguished figures in the history of the present age; but we cannot expect that his merit will shine out in its proper light, since he wrote many things which are not published in his name; was at the bottom of many excellent counsels, in which he did not appear; did offices of friendship to many persons, who knew not from whom they were derived; and performed great services to his country, the glory of which was transferred to others: in short, since he made it his endeavour rather to do worthy actions than to gain an illustrious character." Addison's Freeholder, No. 39.

"The lord Somers," says Swift, in his History of the four last years of Queen Anne, "may very deservedly be reputed the head

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clusion, to the immortal honour of the age, and the inexpressible benefit and safety of posterity: Wherefore for men to raise groundless jealousies at this time of day, it could

and oracle of the discontented party: he hath raised himself, by the concurrence of many circumstances, to the greatest employments of the state, without the least support from birth or fortune: he hath constantly, and with great steadiness, cultivated those principles under which he grew. That accident which first produced him into the world, of pleading for the bishops, whom king James had sent to the Tower, might have proved a piece of merit as honourable as it was fortunate; but the old republican spirit, which the Revolution had restored, began to teach other lessons; that since we had accepted a new king from a calvinistic commonwealth, we must also admit new maxims in religion and government: but since the nobility and gentry would probably adhere to the established church, and to the rights of monarchy as delivered down from their ancestors; it was the practice of those politicions to introduce such men as were perfectly indifferent to any or no religion, and who were not likely to inherit much loyalty from those to whom they owed their birth. Of this number was the person I am now describing. I have hardly known any man with talents more proper to acquire and preserve the favour of a prince, never offending in word or gesture, which are in the highest degree courteous and complaisant, wherein he set an excellent example to his colleagues, which they did not think fit to follow; but this extreme civility is universal and undistinguished, and in private conversation, where he observeth it as inviolably as if he were in the greatest assembly, it is sometimes censured as formal: two reasons are assigned for this behaviour; first, from the consciousness of his humble original, he keepeth all familiarity at the utmost distance, which otherwise might be apt to intrude; the second that being sensible how subject he is to violent passions, he avoideth all incitements to them, by teaching those he converses with, from his own example, to keep a great way within the bounds of decency and respect; and it is, indeed, true, that no man is more apt to take fire upon the least appearance of provocation, which temper he strives to subdue with the utmost violence upon himself: so that his breast has been seen to heave, and his eyes to sparkle with rage in those very moments, when his words, and the cadence of his voice, were in the humblest and softest manner; perhaps that force upon his nature, may cause that insatiable love of revenge, which his detractors lay to his charge, who consequently reckon dissimulation among his chief perfections. Avarice he hath none; and his ambition is gratified, by being the uncontested head of his party: With an excellent understanding, adorned by all the polite parts of learning, he hath very little taste for conversation, to which he prefers the pleasure of reading and thinking: and in the intervals of his time amuseth himself with an illiterate chaplain, an humble companion, or a favourite servant.—These are some few distinguishing marks in the character of that person who now presideth over the discontented party; although he be not answerable for all their mistakes; and if his precepts had been more strictly followed, perhaps their power would not have been so easily shaken. I have been assured, and heard him profess, that he was against engaging in that foolish prosecution of Dr. Sacheverel, as what he foresaw was likely to end in their ruin; that he blamed the rough demeanor of some persons to the queen, as a great failure in prudence; and that when it appeared, her majesty was firmly resolved upon a treaty of peace, he advised his friends not to oppose it in its progress, but find fault with it after it was made, which would be a copy of the like usage themselves had met with after the treaty of Ryswick; and the safest, as well as the most probable way of disgracing the promoters and advisers. I have been the larger in representing to the reader some idea of this extraordinary genius, because whatever attempt hath hitherto been made with any appearance of conduct, or probability of success, to restore the dominion of that party, was infallibly contrived by him; and I prophesy the same for the future as long as his age and infirmities will leave him capable of business."

"The following Anecdotes of Lord Somers were copied many years ago from a manuscript in the possession of the late Dr. Birch.

"'April 26, 1716, died John Lord Somers. 'Burnet hath done him justice in several places, 'and Addison has given us his character in 'colours so strong, that little remaineth to be 'added.

"'His application and capacity were equally 'great and uncommon. At his first going to 'school, he never gave himself any of the diver-'sions of children of his age; for at noon the 'book was never out of his hand. To the last 'years of his life a few hours of sleep sufficed: 'at waking, a reader attended, and entertained 'him with the most valuable authors. Such 'management raised him to the highest emi-'nency in his own profession, and gave him a 'superiority in all kind of useful knowledge and 'learning.

"'Natural strength and clearness of under-'standing thus improved, was the distinguishing 'peculiarity, which appeared in all his perform-'ances. Every thing was easy and correct, 'pure and proper. He was unwearied in the 'application of all his abilities for the service 'of his country. As a writer, he greatly assist-'ed the cause of liberty in the days of its ut-'most peril. As an advocate, a judge, a sena-'tor, and a minister, the highest praises and the 'most grateful remembrance are due to his 'merit.

"'He was invariable and uniform in the pur-

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mean no less, than an intention to embroil us at home, and to defeat all those glorious designs abroad.

The Church voted not to be in Danger.] The debate * at length being over, the question was put, Whether the Church of England was in danger, or not? And upon a division, it was carried in the negative: Noes 61, Yeas 30,

'suit of right paths. As he well understood, 'he was equally firm in adhering to the interest of his country while in its service, and 'when in a private station. To this uniformity 'the calumnies and reproaches of his enemies 'may be truly ascribed. They envied him his 'superiority; and as their wishes and designs 'were far from being engaged for the real welfare of society, a man so upright and able naturally became the object of their hatred; 'and they had too easy and too much credit. 'What greater misfortune can be entailed on 'popular government, than forwardness in receiving all the impressions of malevolence!

"'When I had finished my letter, it came 'into my head to add Somers's character, 'which was uniform, to Shrewsbury, which was 'all deformity.

"'I have been so very short, not only for the 'reasons prefixed, but in expectation of your 'having additions from your truly worthy friend 'Mr. Yorke. The account of his behaviour at 'school I had many years ago from a school-fellow. I think Walsall in Staffordshire was the 'place where they learned their grammar together. I remember very well his account of 'Johnny Somers being a weakly boy, wearing 'a black cap, and never so much as looking on 'when they were at play, &c.

"'Mr. Winnington's account is, that by the 'exactness of his knowledge and behaviour he 'discouraged his father and all the young men 'who knew him. They were afraid to be in his 'company.'

"Towards the close of Lord Somers's Treatise on the Succession, there is this very remarkable passage: 'I will not (though I safely might) 'challenge these men to tell me wherever any 'settled nation, which had laws of their own, 'and were not under the immediate force of a 'Conqueror, did ever admit of a king of another religion than their own. I will not insist 'on it, that the crown is not a bare inheritance, 'but an inheritance accompanying an office of 'trust, and that if a man's defects render him 'incapable of that trust, he has also forfeited 'the inheritance.' In another place of this golden Treatise he says, 'I need not say how 'far a nation is to be excused for executing justice summarily, and without the tedious formalities of law, when the necessity of things 'requires haste, and the party flies from justice, 'and the confederates are numerous and daring, and the prince's life in danger.'

"A pretender to literature having owned a copy of verses which lord Somers wrote, was asked by his lordship, when he was presented to him as Lord Chancellor, whether he was really the author of the lines in question. 'Yes, my Lord,' replied the pretended Poet, 'it is a trifle, I did it off-hand.' On hearing this, lord Somers burst out into a loud fit of laughter, and the gentleman withdrew in the greatest confusion.

"'The king, (George the first,)' says lord Bolingbroke in a manuscript letter, 'set out 'from Hanover in the resolution of taking the 'Whigs indeed into favour; but of oppressing 'no set of men who acknowledged the government, and submitted quietly to it. As soon 'as he came to Holland, a contrary resolution 'was taken by the joint importunity of the 'allies and of some of the Whigs.

"'Lord Townshend came triumphantly to acquaint lord Somers with all the measures of 'proscription and of persecution which they intended, and to which the king had at last consented. The old Peer asked him what he 'meant, and shed tears on the foresight of measures like to those of the Roman Triumvirate.'" Seward's Anecdotes.

* Bishop Burnet gives us the substance of the Debate in the following manner: "On the day appointed we were all made believe, that we should hear many frightful things: but our expectations were not answered: some spoke of danger from the presbytery, that was settled in Scotland; some spoke of the absence of the next successor: some reflected on the Occasional bill, that was rejected in that house; some complained of the schools of the Dissenters: and others reflected on the principles that many had drank in, that were different from those formerly received, and that seemed destructive of the church.

"In opposition to all this, it was said, that the church was safer now than ever it had been: at the Revolution, provision was made, that our king must be of the reformed religion, nor was this all; in the late Act of Succession it was enacted, that he should be of the communion of the church of England: it was reasonable to object to the House the rejecting a bill, which was done by the majority, of whom it became not the lesser number to complain: we had all our former laws left to us, not only intire, but fortified by late additions and explanations; so that we were safer in all these, than we had been at any time formerly: the Dissenters gained no new strength, they were visibly decreasing: the toleration had softened their tempers, and they concurred zealously in serving all the ends of the government; nor was there any particular complaint brought against them; they seemed quiet and content with their toleration, if they could be but secure of enjoying it: the queen was taking the most effectual means possible to deliver the clergy from the depressions of poverty, that brought them under much contempt and denied them the necessary means and help of study: the bishops looked after their dioceses with a care, that had not been known in the memory of man: great sums were yearly raised, by their

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the queen present. Next day the Lords sent a Message to the Commons, to acquaint them with their proceedings touching the Church, and desiring their concurrence to the following resolve, viz. "Resolved by the Lords spiritual and temporal, and Commons in parliament assembled, that the Church of England, as by law established, which was rescued from the extremest danger by king William 3, of glorious memory, is now, by God's blessing, under the happy reign of her majesty, in a most safe and flourishing condition, and whosoever goes about to suggest and insinuate, that the church is in danger under her majesty's administration, is an enemy to the queen, the church and the kingdom."

Protest thereon.] This Resolution being carried in the House of Lords, as aforesaid, by so great a majority, the opposite side, however, entered the following Reasons for dissenting.

"Dissentient. 1st. Because we humbly conceive, there may be dangers to the church always impending on several accounts, the prayers set forth to be used on the solemn feast-days, under the head of a prayer for unity, imploring God Almighty's grace, that every body may seriously lay to heart the great dangers we are in by our unhappy divisions, shew plainly, that, in the opinion of the compilers of the form of that prayer, and in her majesty's judgment, who commands it to be used in all the churches and chapels throughout England and Wales, there are very many dangers.

"2. We humbly conceive the Church to be in danger from a neighbouring kingdom, which though under her majesty's sovereignty, during her life (which God long preserve) hath not, by any means, yet been induced, to settle the same Succession to the crown, as is established by law in this kingdom, in the Protestant line; but, on the contrary, that Succession has been abrogated by the Act of Security, which, with several other acts, passed in that kingdom, has been judged by this House, in the last parliament, to be dangerous to the present and future peace of this kingdom; and therefore we may justly fear there are dangers from hence, both to Church and State.

"3. We humbly conceive, there may be very great dangers to the Church, for want of a law to prevent any person whatsoever from holding offices of trust and authority, both in Church and State, who are not constantly of the communion of the church established by law; and therefore, on the account of the unhappy divisions in the kingdom in points of Religion and divine worship, as also, on the account of the calamities of this age, in the too public and common disowning any religion at all, the church may be in danger.

"4. Though we have an entire confidence in her majesty's zeal and piety to the church, we dare not, in duty to her majesty and the service of the government, condemn all such as may have fears, in relation to the preservation of the church, and safety of the crown.

"5. Being sincerely convinced that these reasons, among some others mentioned in the debate, are sufficient to justify our fears, we humbly conceive, that it is not a proper way to prevent dangers, by voting there are none.

"(Signed) Buckingham, Northampton, Carnarvon, Weymouth, Osborn, Denbigh, George Bath and Wells, Granville, Beaufort, Winchelsea, Nottingham, North and Grey, Anglesea, Craven, Chandois, Guernsey, Thanet, Scarsdale, Rochester, Conway, Howard of Escrick, Henry London, Leeds, Guilford, Abingdon.

"I dissent for the first, second, and fourth reasons, Haversham."

The Archbishop of York, and bishop of Rochester, protested afterwards.

The Commons concur with the Lords therein.] Dec. 7. The Lords sent a message to the Commons, to acquaint them with their proceedings, and to desire their concurrence to their Resolution in relation to the church. Whereupon the question was put the day following, Whether they should consider of that message in a committee, or in a full house? It being carried for the latter by a majority of 232 voices against 161.

Mr *Bromley* opened the debate with a speech wherein he endeavoured to prove the church to be in danger by the same arguments, that had been insisted on in the House of Peers, such as, the power of the presbyterians in Scotland, where the church of England was not so much as tolerated: the absence of the next Protestant successor, in case of the queen's demise: the want of an act against occasional conformity: the increase of presbyterian schools and seminaries: profaneness, immorality, and irreligion: and the Act of Security passed in Scotland: to which he added another, viz. the abuse and ill dispensation of her majesty's late bounty to the clergy.

Sir *John Packington*, who spoke on the same side, urged the licentiousness of the press and the great number of libels, which were daily published against the church; the increase of presbyterian conventicles; and the Lords' Resolution itself, which was the subject matter of their debate, as proofs of the church's being in danger; adding, That, if the Commons agreed to that resolve, the same would in some measure, have the force of an act of parliament,

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care and zeal, for serving the plantations better than had ever yet been done: a spirit of zeal and piety appeared in our churches, and at sacrament, beyond the example of former times. In one respect it was acknowledged the church was in danger; there was an evil spirit and a virulent temper spread among the clergy; there were many indecent sermons preached on public occasions, and those hot clergymen, who were not the most regular in their lives, had raised factions in many dioceses against their bishops: these were dangers created by those very men, who filled the nation with this outcry against imaginary ones, while their own conduct produced real and threatening dangers."

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which would be a dangerous weapon in the hands of ill ministers of state, who thereby might awe people into silence, in case the fancy should take them to suppress episcopacy.

The opposite party answered these arguments, and, after a long debate, the Lords Resolution was agreed to by a majority of 212 against 160.

Address of both Houses concerning the Reports of the Church of England being in Danger.] Dec. 19. Both Houses agreed upon the following Address to her majesty:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal and Commons in parliament assembled, having taken into consideration your majesty's most gracious speech at the opening of this parliament, have, upon mature deliberation, come to the following Resolutions:

'Resolved, by the Lords spiritual and temporal and Commons in parliament assembled, 'That the Church of England as by law established, which was rescued from the extremest 'danger by king William the Third, of glorious 'memory, is now, by God's blessing, under the 'happy reign of her majesty, in a most safe 'and flourishing condition; and that whoever 'goes about to suggest and insinuate, that the 'Church is in Danger, under her majesty's administration, is an enemy to the queen, the 'Church, and the kingdom.'

"Which we humbly beg leave to lay before your majesty: And, as your majesty has been pleased to express a just indignation against all such wicked persons; so we assure your majesty, that we shall be always ready, to the utmost of our power, to assist your majesty in discountenancing and defeating their practices: And we humbly beseech your majesty to take effectual measures for the making the said Resolution public; and also for punishing the authors and spreaders of these seditious and scandalous reports, to the end that all others may, for the future, be deterred from endeavouring to distract the kingdom with such unreasonable and groundless distrusts and jealousies."

The Queen's Answer.] Her majesty gave this Answer:

"My lords and gentlemen; I shall readily comply with your Address; and am very well pleased to find both Houses of Parliament so forward to join with me in putting a stop to these malicious reports."

Mr. Cæsar committed for offensive Words.] This day, an engrossed Bill from the Lords, entitled, 'An Act for the better Security of her 'majesty's person and government, and of the 'succession to the crown of England in the 'protestant line,' was read a second time, and Charles Cæsar, esq. upon the debate of the said Bill, standing up in his place, and saying the words following, (which were directed by the House to be set down in writing at the table) 'There is a noble Lord, without whose advice 'the queen does nothing, who, in the late reign, 'was known to keep a constant correspondence 'with the Court at St. Germains.' And the said Mr. Cæsar endeavouring to excuse himself, and being called upon to withdraw, and he being withdrawn accordingly, and a debate arising thereupon; the House resolved, "That the said words are highly dishonourable to her majesty's person and government. And, That the said Charles Cæsar, esq. should for his said offence be committed prisoner to the Tower."

The Queen's Proclamation concerning the Reports of the Church being in Danger.] Dec. 20th. The following Proclamation was published:

"ANNE *R.*

"Whereas of late several persons, endeavouring to foment animosities, and to cover designs which they dare not publicly own, have falsly, seditiously, and maliciously suggested, the Church of England, as by law established, to be in danger, at this time, whereof we thought fit to take notice in our speech made at the opening of this Parliament: and whereas the Lords spiritual and temporal, and Commons in parliament assembled, have by their humble Address represented to us, that, having taken into consideration our said most gracious speech, they had, upon mature deliberation, come to a Resolution, which they laid before us, assuring us, that, as we had been pleased to express a just indignation against all such wicked persons, they will, be always ready, to the utmost of their power, to assist us in discountenancing and defeating their practices, humbly beseeching us to take effectual measures for the making the said Resolution public, and also for punishing the authors and spreaders of these seditious and scandalous reports, to the end that all others may, for the future, be deterred from endeavouring to distract the kingdom, with such unreasonable and groundless distrusts and jealousies: We, therefore, at the said humble request of the Lords spiritual and temporal, and Commons in parliament assembled, do by this our royal Proclamation, make public the said Resolution, which follows in these words:

'Resolved, by the Lords spiritual and temporal, and Commons in parliament assembled, 'That the Church of England, as by law established, which was rescued from the extremest 'danger by king William 3, of glorious memory, 'is now, by God's blessing, under the happy 'reign of her majesty, in a most safe and flourishing condition; and that whosoever goes 'about to suggest and insinuate, that the 'church is in danger under her majesty's administration, is an enemy to the queen, the 'church, and kingdom.'

"And we do hereby, by the advice of our privy-council, declare, that we will proceed with the utmost severity the law shall allow of, against the authors or spreaders of the said seditious and scandalous reports. And we do hereby strictly charge and command all and singular our judges, justices of the peace, sheriffs, mayors, bailiffs, and all other our ministers whatsoever to take effectual care for the speedy apprehension, prosecution and punish-

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ment of all such persons, who have or shall at any time hereafter offend herein. And we do hereby further require and command all our loving subjects whatsoever, to discover and apprehend all and every person and persons whatsoever offending, as aforesaid, to the end they may be dealt with and proceeded against according to law. And whereas the said seditious and scandalous reports have been greatly promoted and spread, by the printing and publishing of a malicious and seditious libel, entitled, The Memorial of the Church of England, humbly offered to the consideration of all true lovers of our church and constitution: And whereas David Edwards, of the parish of St. Dunstan's in the west, London, printer, is charged on oath to be the printer and publisher of the said libel, and is now under prosecution for the same, and on that account absconds from justice, and the author or authors of the said libel is or are not discovered, we do hereby further require and command all our loving subjects whatsoever, to discover and apprehend the said David Edwards, and the author or authors of the said libel, to the end they may be dealt withal, and proceeded against according to law, &c."

The Queen's Speech at the Adjournment.] Dec. 21. The queen came to the House of Peers, and after passing several Bills, made the following Speech to both Houses:

"My Lords, and Gentlemen; The unanimity of your proceedings in this parliament has already had so good an effect all over Europe, that I cannot but take notice of it to you with great satisfaction.—The good disposition you have shewn in doing your part so fully towards an Union with Scotland, is also very acceptable to me; and, I hope, it will prove for the advantage and quiet of both kingdoms.

"Gentlemen of the House of Commons; I must not omit to take this occasion of returning you my hearty thanks, for the great dispatch of this seasonable supply which you have given me: I look upon it as a sure pledge, that the same zeal and affection for my service, and the good of the kingdom, will carry you through all the necessary parts of the public business in this session.

"My Lords and Gentlemen; In case you now think of some recess, as is usual at this season; I make no doubt, you will afterwards return with the same good disposition to give all possible dispatch to the public affairs still depending, and bring this session of parliament to a happy conclusion."

Both Houses then adjourned; the Commons to the 7th, the Lords to the 8th of January.

The Commons give the Duke of Marlborough Thanks.] Jan. 7, 1706. The Commons resolved, "That the Thanks of their House should be given to his Grace the Duke of Marborough, for his great services performed to her majesty, and the nation, in the last campaign, and for his prudent negotiations with her majesty's allies," and appointed a Committee for that purpose: Who having attended his Grace, his Grace said, "He was so sensible of the great honour that was done him by this message, that he could not have the least concern at the reflections of any private malice, while he had the satisfaction of finding his faithful endeavours to serve the queen, and the kingdom, so favourably accepted by the House of Commons."

The Queen's Message to the Commons about the Authors of the Memorial.] Jan. 21. Mr. Secretary Harley acquainted the House, "That her majesty, in pursuance of the Address of both Houses, put out a Proclamation, in which was an encouragement for discovery of the Author or Authors of 'the Memorial of the Church of England,' &c. the printer* of which Book, being now in custody, and other persons being examined, in whose depositions there appeared the names of some members of this House: her majesty's tenderness for any thing which had the appearance of the privileges of this House, had inclined her to command him to acquaint the House therewith, before she directed any further proceedings in the said examination." Thereupon, the Commons ordered the Serjeant to go with the mace into Westminster-Hall, the Court of Requests, and places adjacent, and summon the members there to attend the service of the House. And the Serjeant being returned, the House resolved, "That an humble Address should be presented to her majesty, returning the thanks of the House, for her gracious message that day, and her tender regard to the privileges of that House; and to desire, that she would be pleased to give order for a further examination into the Authors of the libel mentioned in the said message."

Which Address being presented accordingly,

* "Jan. 15. David Edwards, printer of the Memorial, who had a long time absconded, and was left without any support by that party that had employed him, was, by his own consent, taken into custody of a Messenger, upon a promise in writing, from Mr. Secretary Harley, That he should have his Pardon, provided he discovered the Author or Authors of that Pamphlet. Three days after, being examined before the same Secretary, he pretended he could fix it upon three gentlemen, members of the House of Commons, viz. Mr. Poley, Mr. Ward, and sir Humphrey Mackworth; and related, That a woman in a mask, with another bareface, brought the Manuscript to him, and made a bargain with him to have 250 printed copies for it; which he delivered to four porters sent to him by the persons concerned. But though the woman that came to Edwards without a mask, and some of the porters, were found out and taken up, yet it was impossible to carry on the discovery any farther. Which gave occasion to a member of the House of Commons (Mr. Poley) to say, 'That it was not usual to accuse members of their House, of being concerned in any thing to the prejudice of the government, without naming their names.'" Tindal.

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her majesty was pleased to answer, "That she was glad to find this House express so much resentment against the libel mentioned in her message, and took very kindly the confidence this House reposed in her, which she would make the best use of, for the advantage of the public."

The Queen's Speech on passing the Money Bills.] Feb. 16. The Queen, after passing several Bills, made this Speech to both Houses:

"My Lords and Gentlemen; I cannot but take this occasion to return you my hearty thanks, for the great care and concern you have shewn to promote every thing in this session, that may tend to the public good.

"Gentlemen of the House of Commons; I must thank you in particular for your having so fully complied with your assurances to me, at the opening of this parliament, that you would give all possible dispatch to the public Supplies. There is scarce any instance to be given, where so great, and I hope, effectual supplies, have been perfected in so short a time.—I look upon this to proceed not only from your great zeal for the public service, but from a just impression upon your own minds, that there is a necessity of making extraordinary efforts, to support and encourage our allies, and to be early in endeavouring to disappoint the designs of our enemies.

"My Lords and Gentlemen; It will be convenient to make a recess in some short time, I hope therefore you will continue to give all necessary dispatch to what may yet remain unfinished of the public business before you."

The public Revenues voted to have been duly applied.] Feb. 21. The House of Commons proceeded to take into further consideration the Accounts of the Revenues and Debts ever since her majesty's happy accession to the crown; and resolved, "That it appeared to the House, That the public Revenues granted, or arisen since her majesty's happy accession to the crown, had been duly applied to the happy uses, under a prudent management, to the advancement of the public credit, and for the advantage and honour of the nation."*

A Bill to prevent the Growth of Popery rejected.] Feb. 27. A Petition of the gentry and clergy of the south parts of Lancashire, at their monthly meeting, on the 12th, in the borough of Wigan, for suppressing profaneness and immorality, was presented to the House of Commons, complaining of several grievances they laboured under from the priests, Romish gentry, and popish emissaries, and praying for redress and relief. After the reading of this Petition it was unanimously resolved to address the queen, "That she would be pleased to issue out her royal proclamation for the putting in execution the laws in force against all such persons, as had or should endeavour to pervert her majesty's subjects to the popish religion:" And they ordered, that a Bill be brought in for making more effectual the act of the 11th year of his late majesty's reign, for the further preventing the Growth of Popery. This bill was accordingly presented the next day, by sir James Montague, and read the first time; and, on the 1st of March, the Commons gave it a second reading, and went through it in a grand committee. By the act, passed in the latter end of the late reign, it was provided, "That all papists should, within six months, after they had reached the age of eighteen, take the oaths of allegiance and supremacy, or declare themselves protestants; in default whereof, their estates were to go to the next heirs, being Protestants." Now this clause was so lamely expressed, that the Roman Catholics found two ways to evade it. First, there being in all families a gradation of age among the several heirs to the same estates, it happened, that though the person, who was come to the age of eighteen, did not take the oaths prescribed by the law, yet the title of Protestant heir remained undecided, as long as

* "The House of Commons went on in creating funds for the supplies they had voted for the next year: and the nation was so well satisfied with the government, and the conduct of affairs, that a fund being created for two millions and a half, by way of annuities for 99 years at 6½ per cent. at the end of which the capital was to sink; the whole sum was subscribed, in a very few days: at the same time the duke of Marlborough proposed the advance of a sum of 500,000*l.* to the Emperor, for the use of prince Eugene, and the service of Italy, upon a branch of the emperor's revenue in Silesia, at eight per cent. and the capital to be repaid in eight years: the nation did so abound both in money and zeal, that this was likewise advanced in a very few days: our armies, as well as our allies, were every where punctually paid: the credit of the nation was never raised so high in any age, nor so sacredly maintained: the Treasury was as exact and as regular in all payments as any private banker could be. It is true, a great deal of money went out of the kingdom in specie: that which maintained the war in Spain, was to be sent thither in that manner, the way by bills of exchange not being yet opened: our trade with Spain and the West-Indies, which formerly brought us great returns of money, was now stopt: by this means there grew to be a sensible want of money over the nation: this was in a great measure supplied, by the currency of Exchequer bills and Bank-notes: and this lay so obvious to the disaffected party, that they were often attempting to blast, at least to disparage this paper credit: but it was still kept up. It bred a just indignation in all, who had a true love to their country, to see some using all possible methods to shake the administration, which notwithstanding the difficulties at home and abroad, was much the best that had been in the memory of man: and was certainly not only easy to the subjects in general, but gentle even towards those, who were endeavouring to undermine it." Burnet.

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any next Popish heir was under age. Secondly, (and this was the main inconvenience) it lying by that clause upon the next heir to him, who at the age of eighteen refused to declare himself a Protestant, to prove that he had not made that declaration, it was impossible for the next heir to prove such a negative. Now, to make that clause binding and effectual, it was enacted in this bill, "That all Papists, and reputed Papists should, within six months after they had reached the age of eighteen, not only declare themselves Protestants, but prove also, that they had made such a declaration." This alarmed all of that religion, so that they made very powerful (or to follow the raillery of that time) weighty intercessions with the considerable men of the House of Commons. The court looked on, and seemed indifferent in the matter; yet it was given out, that so severe a law would be very unreasonable, when the nation was in alliance with so many princes of that religion; and that it must lessen the force of the queen's intercession in favour of the Protestants, who lived in the dominions of those princes. The proceeding seeming rigorous, and not suited to the gentleness which the Christian religion so particularly recommended, and was contrary to the maxims of liberty of conscience and toleration, that were then in great vogue. It was answered that the dependence of those of that religion on a foreign jurisdiction, and at present on a foreign pretender to the crown, put them out of the case of other subjects who might differ from the established religion, since there seemed to be good reason to consider them as enemies rather than as subjects. But the application was made in so effectual a manner, that the bill was let fall; for on the 2d of March when sir James Montague was to report to the House the amendments made to the bill by the grand committee, the duke of Norfolk, the chief among the Roman-catholics in England, petitioned, "That he might be heard by his counsel for explanation of some words in the bill, and for such relief to him, as to the House should seem meet." Upon the reading of this petition, the Commons ordered, that the duke of Norfolk be heard by his counsel, as to the property in the office of earl marshal of England only. But his counsel not being then ready, the House heard sir James Montague's report, and then ordered the bill, with the amendments, to be ingrossed. Two days after, the bill was read the third time, and several other amendments were made to it; after which the question was put, That the bill do pass? This occasioned a great debate, wherein colonel Godfrey, Mr. Buscawen, and Mr. Asgil endeavoured to shew the injustice of such a law, urging, that, besides the offence it would give to the Roman-catholic princes in alliance with the nation, it would look as if they approved the persecution exercised by the French king and other Catholic princes against their Protestant subjects. At last the bill was rejected by a majority of 119 against 48.

The Lords' Address against Papists.] And, though the Lords had made some steps towards such a Bill, yet since they saw what fate it was like to have in the House of Commons, instead of proceeding further in it, they dismissed that matter with the following Address to the queen, on the 14th of March:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, do humbly beg leave to acquaint your majesty, That the Lord Bishop of Chester has presented to the House a Petition, for himself and the gentry and clergy of the south parts of Lancashire; complaining of the intolerable boldness and presumption of the Romish priests and papists, in employing all their inveigling arts and devices, in perverting and seducing the gentry and commonalty, and that not only secretly, but openly and publicly, in defiance of the laws; that their priests are numerous, their masses frequent; their people go affectedly in troops; they marry without license, or publication; they visit Protestants, when sick or dying, in order to pervert them; they throw out ill language against the church and government, and spread false reports and scandalous reflections upon the orthodox clergy; and have built a stately edifice, which, as the Petitioners had good reason to believe, is intended for a seminary; and several lands have been settled, for the endowment of that and other places; that the popish gentry are assistant to their priests in their perversions; and, to insinuate themselves into Protestant families, catch at all opportunities to marry amongst them, whereby they have proselyted many of the gentry.

"Such open insolence, shewn by people so obnoxious to the laws, in the midst of a war, in which your majesty is engaged against the French king, the declared protector of one of the popish religion, who openly pretends a title to your majesty's crown, does not only raise in us a just indignation, but makes us think it absolutely necessary, for the safety of your majesty's royal person and government, that a more watchful eye should be had over them for the future; and, for that purpose, that a distinct and particular account should be taken of all papists, and reputed papists, in the kingdom, with their respective qualities, estates, and places of abode.

"We do therefore most humbly beseech your majesty, that you would be graciously pleased to send directions to the several Lords Lieutenants and Custodes Rotulorum of the several counties and places, to cause all the Deputy Lieutenants and Justices of the Peace of the respective counties and places to assemble together, and, being so assembled, there to agree of the most proper manner to sub-divide themselves into several divisions, for the more effectual performing the said service within such subdivisions; and that, at such general meeting, an account be taken distinctly of the names of the several Justices and Deputy Lieutenants designed for the said several sub-divisions; and

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that the several Justices of Peace and Deputy Lieutenants should, under their several hands, return a particular account, in writing, of what they shall perform in the said several sub-divisions, which the said Lords Lieutenants and Custodes Rotulorum shall return to your majesty in council, together with the names of every one of the Deputy Lieutenants and Justices of Peace who did neglect or refuse to perform their duties in relation to that service.

"And, to the end the said account may be the more exact and useful, we most humbly beseech your majesty to send your royal commands to the archbishops, requiring them to issue orders to all the bishops in their respective provinces, directing them to require the clergy in their several dioceses to take an exact and particular account of the numbers of the papists, and reputed papists, in every parish, with their qualities, estates, and places of abode, and to return the same to their respective diocesans, who shall return the same to their several archbishops, in order to be laid before your majesty.

"And we do also desire your majesty will be pleased to direct, that the archbishops do require the bishops, in their several dioceses, to proceed against such of the clergy as shall refuse or neglect to do their duty in respect to the said service, according to the utmost severity of law; and also to return the names of the clergy, who shall be defective in performing the said service, in order that the same may be laid before your majesty.

"And we farther beseech your majesty, to command the archbishops to require the bishops, by all proper ways and means, to inform themselves what advowsons, or rights of presentation, or donation of churches, benefices, or schools, are in the disposition of any papists, or reputed papists, or of any in trust for them; and to return what they shall find, particularly and distinctly, to the archbishops, to the intent the same may be represented to your majesty.—And lastly, we most humbly desire your majesty, that you will be graciously pleased to cause the several accounts of all these inquiries to be laid before this House, at the next session of parliament."

The Queen's Answer.] Her majesty gave this Answer:

"I am fully convinced, that the insolent behaviour of the papists hath made what you advise necessary to be done, for the safety of my person and government, and the welfare of my people.—I thank you for your care in this matter; and will give, as soon as possible, the necessary orders for every thing you desire of me in this Address."

A Bill to regulate Proceedings at Law.] About this time Lord Somers made a motion in the House of Lords, to correct some of the Proceedings in the Common Law and in Chancery, which were both dilatory and very chargeable. He began the motion with some instances, that were more conspicuous and gross; and he managed the matter so, that both the lord keeper and judges concurred with him, though it passes generally for a maxim, that judges ought rather to enlarge than contract their jurisdiction. A bill passed the House of Lords, which began a reformation of proceedings at law; but, when it went through the Commons, it was visible, that the interest of under officers, clerks, and attornies, whose gains were to be lessened by this bill, was more considered, than the interest of the nation itself. Several clauses, how beneficial soever to the subject, which touched on their profit, were left out by the Commons. But, what fault soever the Lords might have found with these alterations, yet, to avoid all disputes with the Commons, they agreed to their Amendments.

There was another general complaint made of the private acts of parliament, that passed through both Houses too easily, and in so great a number, that it took up a great part of the session to examine them, even in that cursory way, that was subject to many inconveniencies. The fees, that were paid for these to the speakers and clerks of both Houses, inclined them to favour and promote them. The lord Somers therefore proposed a proper regulation in that matter. The lord keeper Cowper did indeed very generously obstruct those private bills, as much as his predecessor Wright had promoted them. He did another thing of a great example: On the first day of the year, it became a custom for all those, who practised in chancery, to offer a new year's gift to the lord, who had the great seal. These grew to be so considerable, that they amounted to 1,500*l.* a year. On the new year's day of this year, which was his first, he signified to all those, who, according to custom, were expected to come with their presents, that he would receive none, but would break that custom. He thought it looked like the insinuating themselves into the favour of the court; and that, if it was not bribery, yet it came too near it, and looked too like it. This contributed not a little to the raising his character; and he managed the court of chancery with impartial justice and great dispatch, and was very useful to the House of Lords in the promoting of business.

A Bill for the Encouragement of Seamen.] There were also some regulations made this session about Seamen, which were inserted in a Bill for the Encouragement and Increase of Seamen. This bill was brought in, because about 12,000 sailors were wanted at this time to man the fleet, and was perfected and passed both Houses in four days. The Resolutions in the Bill were as follow: 1. "That, in order to the speedy and more compleat manning of her majesty's navy for the year 1706, the justices of the peace and other civil magistrates throughout the several counties, ridings, cities, towns, and places, within the kingdom of England, dominion of Wales, and town of Berwick upon Tweed, be impowered and directed forthwith to make, or cause to be made, strict and diligent search for all such seamen, or sea-faring men, as lie hid, and are not in her majesty's

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service. 2. That the justices, and other civil magistrates, do take up, send, conduct, and convoy, or cause to be taken up, sent, conducted, and conveyed, all such seamen or sea-faring men, to be delivered to such persons, as shall be appointed to receive the same. 3. That a penalty be inflicted upon every person, who shall presume to harbour or conceal such seamen or sea-faring men. 4. That a reward be given to every person, who shall discover and take up such seamen or sea-faring men, as aforesaid, the same to be distributed and paid to every such discoverer or person, so taking up such seamen or sea-faring men respectively, out of the money given for the service of the navy. 5. That conduct-money be allowed for conveying and subsisting such seamen and sea-faring men, according to the present usage of the navy. 6. That, for the encouragement of the service, every seaman, who shall be turned over from one ship to another, shall be paid his wages which shall appear to be due to him in the ship, from which he was turned over, before such ship, to which he shall be turned over, go to sea, either in money, or by a ticket, which shall intitle him to an immediate payment. 7. That such able-bodied landmen, who are liable to be raised for the recruiting her majesty's land-forces and marines, be raised for the service, in the like manner, and delivered to such persons, who shall be appointed to receive the same." And they ordered, "That the committee, to whom the Bill for the Encouragement and Increase of Seamen, and for the better and speedier manning her majesty's fleet, and for making provision for the widows and orphans of all such, as shall be slain or drowned in her majesty's service, and for the support of trade, was committed, have power to receive a clause or clauses pursuant to these Resolutions: And that it be an instruction to the committee, that they have power to receive a clause for discharging of such seamen, and other insolvent persons, as are in prison for debt, and delivering them into her majesty's service on board the fleet."

Complaint against Sir Rowland Gwynne's Letter to the Earl of Stamford, for bringing over the Princess Sophia.] March 8. A Complaint was made to the House of Commons of a printed pamphlet entitled, "A Letter from sir Rowland Gwynne to the right honourable the earl of Stamford;" which was read at the table, and some of the most remarkable passages are as follow:

"My lord, I did long since receive the letter your lordship was pleased to honour me with, of the 9th of November; and have hither delayed returning any answer to it, that I might with more deliberation tell you my thoughts upon a matter of so great importance.

"I did also expect, that some friends would have discovered to us the wicked designs you suspected to lie hid under the advice to the queen, to invite the electoress over into England; and shewed us better reasons than I have yet seen, why they were not for it. But I must own, that I am hitherto at a loss in this matter, and not a little surprized to see them act so contrary to the opinion they were formerly of.

"The occasion of my last letter to your lordship, was to communicate to you a Letter* writ by the electoress to my lord archbishop of Canterbury, in answer to one that her royal highness had received from his grace; wherein she thought fit to declare her respect for the queen's majesty, and the good intentions she hath always had for the good of England. Her royal highness being informed, from several persons of credit, that her good inclinations for the queen and the nation, were misrepresented; some having reported, that she did not think of England; others that she might give a rise to intrigues against the queen and the public, if she came thither: She thought herself therefore obliged to declare to my lord archbishop and others she wrote to, and also

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* The following is a copy of the said Letter:

A LETTER from her royal highness, the Princess SOPHIA, Electress of Brunswick and Lunenburgh, to his grace the Archbishop of Canterbury.

"My lord; I received your grace's letter; * * * You have no reason to make any excuse that you have not writ to me more often. For I do not judge of people's friendship for me, by the good words they give me, but I depend upon your integrity, and what you tell me, in general, of the honest men of England.

"I desire no further assurance of their good will and affection to me, unless they think it necessary for the good of the Protestant religion, the public liberties of Europe, and the people of England.

"I thank God I am in good health, and live in quiet, and with content here: Therefore I have no reason to desire to change my way of living, on the account of any personal satisfaction that I can propose to myself.

"However, I am ready and willing to comply with whatever can be desired of me, by my friends, in case that the parliament think, that it is for the good of the kingdom, to invite me into England.

"But I suppose they will do this in such a manner, as willsmake my coming agreeable to the queen, whom I shall ever honour, and endeavour to deserve her favour; of which she hath given me many public public demonstrations, by what she hath done for me in England and Scotland, which you can judge of more particularly: And I most remember that she ordered me to be prayed for in the churches.

"I doubt not, but her majesty is as much inclined at present, to establish the safety of the three kingdoms upon such a foot, that they may be exposed to the least hazard that is possible, and that she will begin with England.

"Mr. How has acquainted me with her majesty's good inclinations for my family; which makes me think, that, perhaps her majesty sees

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to tell the duke of Marlborough and the earl of Sunderland, when they were here, that she would always most sincerely maintain a true friendship with the queen: and also be ready to comply with the desires of the nation in whatever depends upon her, though she should hazard her person in passing the seas, if they thought it necessary towards the establishment of the Protestant succession, and for the good of the kingdom; But that, in the mean time, she lived in great quiet and content there, (without meddling with parties or cabals) and left it to the queen and parliament to do whatever they should think fit.

"I did therefore believe I should please your lordship by sending you so desirable a declaration, by recommending you as a fit person to be consulted upon it, and by entreating you to communicate it to our friends, being well assured of your zeal for the Protestant succession, and friendship for me. But I was very much surprised when I found, by your answer, that you did attribute her royal highness's declaration, which was so necessary in itself, to the artifices of the Jacobites.

"What, my lord, would you then be pleased that the electoress should not think of England, and that the people should believe so? or that she would countenance cabals against the queen? Or ought one to be called a Jacobite for undeceiving the world of so gross and wicked a misrepresentation? The electoress hath been often desired to declare, that she was willing to come into England; but she never thought fit to give any answer to it, further than she submitted herself and family to the pleasure of the queen and parliament, till she was pressed to declare, That she would not approve of the motion to be invited to come over. This was such advice that it gave her just reason to suspect, that there were some secret designs against the succession, or at least tending to alienate the affections of the people from her person: And this was a further reason for the declaration she made, that she might not be misrepresented.

"Your lordship farther tells me, That you will not dip in any thing of this kind, (I use your own words, that I may not mistake your meaning) which tends, in your lordship's opinion, to set up two courts in England, in opposition to each other? Did I propose any thing to your lordship but to do justice to truth by making known to our friends her royal highness's good intentions? And can you complain of me for desiring a thing so just in itself, and which every honest man ought to do? How then can your lordship imagine, that this tends to set up two courts in opposition to each other? It is plain, by the electoress's Declaration, that she hath said nothing therein, either to desire her being invited over, or to hinder it; but she leaves all to the queen and parliament. I told you this, and you seemed to take it ill, or at least otherwise than I intended it.—Whoever did represent this to your lordship as a thing that may disturb our present quiet and future peace, must be an enemy to both.

"Do you think, my lord, that the electoress ought to declare, That she would not come into England? or that she herself should obstruct any invitation that the queen and the parliament may give her? This might be taken as an abdication of her right to the succession. But I can assure your lordship, that she will not betray the trust and confidence the people of England have reposed in her, nor injure her family. It is true that she is much advanced in years, and, according to the course of nature, may not live long; but the elector and prince-electoral have many years to come, in all appearance, and have virtues that deserve the crown of England, whenever it shall please God that the reversion shall come to them. Can you approve such advice? Or can you think the authors of it friends to her, or her family, or, which is more, friends to England? Must we say, that those who speak again t her, are her friends: and those who speak for her, are her enemies? This seems to me to change the name and nature of things.

"When your lordship considers what I have said, and reflects upon it in your heart, I doubt not, but you will see that you have been imposed upon by those who are Jacobites themselves in their hearts, or something worse, if it be possible, and certainly design to subvert the Protestant succession established by law, or so to weaken it, that it may depend upon accidents, or upon the humour and interest of particular men: For none but such can have the malice to invent, and insinuate to others, that the presence of the successor is dangerous. This is a thing that hath not been heard of in other countries, and is directly against common sense. This is a new paradox, which cannot be conceived in England, by any but those, who are very weak, or corrupted. We ought to maintain the contrary; since we know that we have secret and dangerous enemies at home, and an irreconcilable and powerful enemy

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this is a proper time for her to express herself in our favour. But whether I am right in this point or not, my friends in England can best judge.

"It is but reasonable that I should submit myself to their opinions and advice. And I depend most upon what your grace shall advise, which will ever have the greatest weight with me.

"Therefore I write the more plainly to you, and tell you my thoughts, that you may communicate them to all you think fit. For they will then see that I have great zeal for the good of England, and a most sincere respect for the queen.

"This is the best proof that I can give, at present, of my esteem for your grace. But I shall be glad of further opportunities to assure you, that I am, and shall ever be most sincerely, my lord, vostre trés affectionné à'vous servir,

SOPHIE, Electrice."

Hanover, Nov. 3, 1705.

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abroad, who may have both the will and power to hinder the passage and establishment of the successor, at the time when it may be most necessary; and totally thereby to subvert our constitution, if it does not please God once more, to preserve us by his manifest providence.

"You go on, my lord, and desire that I would advise the electoress to take care that she is not imposed upon by the Jacobites: But this caution is very unnecessary; for I can assure you that her royal highness does not consult them in any thing, and much less will she do it in what relates to the succession: For if she did, she must act against the rules of good reason and sense. You may say that they are Jacobites who give these advices: But her royal highness did not want any advice to express and declare herself, as she hath done, in a manner so suitable to her former conduct. If we will suppose that this proceeds from the Jacobites, we must, at least, think that it is for their interest.

"But can you believe, my lord, that it is, in any manner, for their interest to persuade the Protestant successor to declare her esteem and affection for the queen and nation? And yet this is all that her royal highness hath expressed in her letter to the lord archbishop. Such Jacobites must be very silly, and not to be feared, who should advise that which must destroy all their hopes. For the electoress's declaration was to take off all the groundless suspicions, to unite all honest men, and to secure our constitution: And therefore your lordship, and all our friends, ought to have desired her royal highness to explain herself after this manner: and all that wish well to their country, ought to thank her for having done it.

"We Whigs would have been formerly very glad to have seen such a declaration from her royal highness. I pray then, my lord, judge what opinion the electoress ought to have at present, of our steadiness and principles, if she should receive advice from us, so contrary to what she ought to have expected. But I do not apply this to this your lordship: For I am persuaded that you will be one of the first that will quit this mistake, and condemn the strange notions that have been imposed upon you by others.

"We have been proud to say, that the House of Hanover, the people of England, and our posterity, were most obliged to the Whigs, next to the king, for settling the succession upon that most serene House: And how much should we be to be blamed, if we should lose this merit, by parting with our principles, that were so well grounded upon honour, and the public good; and by destroying the work of our own hand, for a base and uncertain interest; or for a blind obedience to those, who lead others where they please, and yet are led themselves by their passions, or imaginary prospects, of which they may be disappointed? For if they hope to get into favour by such methods, they cannot be long serviceable nor preserve the favour they seek; for they will soon be cast off, when it is found that they have lost the esteem and affection of the people, by their weak or mercenary conduct. They cannot do any thing that will better please their enemies: for, while they think to keep down the Tories by a majority, and oppose them, even in things so reasonable and just; they will raise their reputation, instead of lessening it. If others think fit to quit their principles, yet I will never part with mine; for I am still of the same opinion that the best Englishmen professed themselves to be of, in the late king's time; and I find no reason for any honest man to change.

"I am sorry for those who suffer themselves to be imposed upon; but they who have wicked designs, may one day repent of them. And I will be bold to say, that they must either plunge the nation in the greatest confusion to make it unable to punish them; or that they will be answerable for the dangers into which they are like to bring it. Those who betray their country, will have little satisfaction or assurance of enjoying their hoped-for advantage, which will be embittered by their guilt and the perpetual apprehensions they will have; and nothing but a timely death can deliver them from being punished as they deserve; whether the nation continues to flourish, and escapes the designs laid to enslave it, or whether it be ruined by popery and tyranny; which may happen by their artful conduct in making us neglect our own safety. For if tyranny and popery prevail, many of them will suffer under the French and Jacobite cruelties, which will not be less, than those we have read of in queen Mary's time; and they, that may think themselves the most secure among us, will be happy if they can save only their lives.

"So terrible a revolution is, perhaps, more to be apprehended, than people think. But if it does not happen at present, yet it may come to pass, even in the life-time of those who believe they may contribute towards it with impunity. They themselves may feel those miseries which they would carry down to posterity, and even to their own children, if they have any; and this only to satisfy their own present passions, at the expence of their country, and contrary to their duty both to God and man.

"These, my lord, are the sentiments and measures that are wicked in themselves, and that we ought to abhor; and not the thoughts of endeavouring better to secure the Protestant succession, by having the next heir of the crown in the kingdom. But your lordship is told, that the coming of the electoress into England, will set up two courts, that will oppose each other. I cannot conceive how any body could tell you such a thing, or what colour they could have for so base an insinuation.

"For the electoress declares, 'That she will be entirely united with the queen; and that all those, who imagine she will countenance

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any intrigues against her majesty, will be very much deceived in their expectations.' Yet, notwithstanding, it seems there are some people, who endeavour to persuade your lordship, that even this sincere declaration tends to raise confusion. Is not this, in plain terms, to contradict what the electoress hath said, and to put an affront upon this great princess, and your lordship, as well as upon all others, who have had the honour to converse with her royal highness, and must have done her justice. The world knows that she is a princess, whose natural temper is generous, and obliging, and sincere, and of a public spirit. Are not you, my lord, then obliged as much as any man living, boldly to contradict these malicious calumnies which you know to be false, to set them right who are mis-informed, and to oppose those who endeavour to impose upon others?

"But let us suppose what you say, and allow, that (contrary to all appearance) discontented or ill men may impose upon the electoress's good-nature, and incline her to do such things, as may displease the queen. What hurt can that do? since her royal highness's court can have no power in England, and must be subject to the queen's court, who is the sovereign. I will not touch upon things that have passed in our time, and confirm what I say. So that it is most absurd, to make people believe, that this pretended opposition of the two courts, can bring us into so great dangers, as those we may avoid, by having the Protestant heir in the kingdom. Let us, in the mean time, examine these pretences, how absurd soever. If we will keep the next Protestant heir at a distance, it must be allowed to be grounded upon two suppositions; First, that the queen is against the electoress's coming over; and secondly, that her being in England during the queen's life, is a thing ill in itself.

"These two propositions are wicked and criminal in themselves: for to say, that the queen would take away, from the presumptive heir, the right of coming into England, is to cast a great reflection upon her majesty, and to create a misunderstanding between her majesty, and the person in the world she ought to be most united with.

"But to maintain, That the electoress's being in England, is ill in itself; one must declare himself to be of a most ridiculous, or of a most malicious opinion. For either it must be a general rule, that the successor must be always kept out of the kingdom: Or, it must be supposed, that the people have just reason to entertain some just notion in prejudice to the electoress. But the general rule is, absolutely, not to be maintained, There is neither law nor example to justify it. For if it were so, then her majesty, when princess of Denmark, must have been sent out of the kingdom; and yet no man ever pretended to broach so traitorous an opinion. And all the world knows, that the electoress may come over whenever she pleases without being invited. All wise princes and governments, that have had a succession, have ever thought, that the securing of that succession, was a present and great security to the public safety; without considering whether there should arise any real or imaginary disputes between the sovereign and the next heir.

"And I also hope that our friends will never pretend to have any reason to insinuate, that they ought to have any jealousies of the electoress, as to her own person. For people must be very malicious to say, or very ill informed to believe, that she is weak or disaffected, that she loves divisions, or that intriguing persons can manage and turn her at their pleasure. You know, my lord, that she is infinitely above these characters. That she is wise, and hath the greatest tenderness in the world for her relations, and particularly for her majesty. That she is charitable to all men, a friend to English liberty; and so knowing, that she cannot be easily imposed upon. All those who are acquainted with her, ought to believe, that the queen would be well pleased with her agreeable temper and conversation. Her moderate behaviour hitherto ought to assure us of the continuance of it for the time to come. Her quiet temper, her zeal for our preservation, and her esteem for the queen, have made her not comply with the advice of some, who called themselves Whigs; which might have given offence, if she had followed them.

"If, after all this, people can think, that her presence in England can be any prejudice to the queen or kingdom, they must be very ungrateful. And it is no less injurious to her character to misrepresent the publishing a Letter, that was so judiciously writ, and so necessary, at this time, to suppress these groundless reports. This letter, which I sent to your lordship, was only to confirm what she had said to Mr. Howe, who is the first of the queen's ministers that have come to this court, that hath owned he had orders to declare to her royal highness the queen's good intention, further to secure the succession in her royal highness's family. So that nobody can say, that she hath done any thing at present, but what came from the queen herself.

"It also appears, that it is a most skilful and malicious contrivance of some, to cry out, Jacobitism; as soon as any body they do not like, speaks of inviting over the presumptive heir. Those who are sincerely for so proper a method to secure the succession, ought to take the advantage of joining in this point with all whoever are for it, let their character be what it will. For when men mean well, they will thoroughly pursue their point, and consider the nature of things as they really are in themselves. If those whom you suspected to have had wicked designs, were not sincere in shewing their zeal to invite the presumptive heir, we ought to have taken them at their word; and by this means they had been punished as they deserved, by being catched in their own snare. Then the crown might have been joined with the church, in an excellent address to the

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queen, and both voted out of danger. May the judgment, honour and candour of our friends, never be called in question by our own, and other nations; for their very visible mistake, in losing this great, and, perhaps, irrecoverable, opportunity they had to oblige their country for ever.

"If the motion to invite the Successor could be of any use to the Jacobites, it must be because it was not received. Ought a good thing to be disapproved, because a man I suspect, or do not love, proposes it? If we maintain this position, we shall put it into the power of the Jacobites, to hinder any good resolution we can desire to take; for it will be enough, if any one we call a Jacobite, seems to agree with us. It is a shame that we should be imposed upon by such weak and malicious notions.

"In short, to oppose the further securing of the Protestant Succession, is to act directly for the Jacobites; and to hinder the Successor's coming into England, is to oppose the further securing of the succession, in my humble opinion. The succession and England are in great danger from the present conjuncture of affairs. The success of the present war, which is, as yet, very uncertain, will have the greatest influence on this subject. Our constitution does not allow of a standing army in time of peace, though we have a formidable neighbour, who hath always a will, power and pretences to surprise us, whether we are in peace or war with him, if we are not ever upon our guard: And he aims at no less, than to subvert our religion, liberty and property.

"Under such circumstances, we ought to think of all possible means to secure ourselves against a deluge of blood, and an universal confusion. The subversion of our constitution is much to be apprehended; if it should so unfortunately fall out, that there should be a demise; and the successor, being absent, should not be in a condition to pass the seas, while the enemy may have time to prevent all our good measures. It is certain, that those, who are not sensible of the consequences, that may attend our negligence, and the malice of our enemies, on such an occasion; must either be corrupted, or very indifferent, as to the safety of their country.

"Therefore it is necessary, that the presumptive heir should be always established in England: And it would be better husbandry, to make an honourable provision for him suitable to what was settled in the late reigns; than to be at the charge of a war, to recover his right, and our own liberties, from the dangers which they then may be in. This may save us great sums, which we may be obliged to lay out, to bring him over; and yet, perhaps, we may not have the success we desire.

"We may well remember, that the nation paid 600,000*l.* for the expence of the prince of Orange's Expedition to deliver us from the danger our own folly had brought us into: And yet it was a hundred to one, that he succeeded, though so many men of quality and interest, both in church and state, did appear for him. But the expense of money is the least evil that our negligence may bring upon us: Since our religion, lives, and liberties, and all are at stake.

"Your lordship further says, that the Court was threatened last sessions with this motion, and dared with it ever since the parliament was chose; and that it is your opinion, that the electoress should not give any further countenance to it. I use your lordship's own words, and do assure you, that the electoress hath not meddled with, nor countenanced any design, otherwise than appears in her letter to my lord archbishop; having had no knowledge of what was to be proposed in her favour before the motion was made. But since you had such early notice of this design, I do the more wonder that this motion was not made by those who belonged to the Court: Since it is most manifestly for her majesty's interest, as well as that of the nation, that the presumptive heir should be established in England.

"You could not then have had a pretence to complain, that it came from men you did not like; and we have no reason to think that it would not have been agreeable to the queen, if the whole matter had laid before her majesty, who does every thing that can be advised for the good of Europe and of her own subjects. It is a strange notion, to think, that the presence of the Successor can ruin the succession. And it is very unlikely, and not to be supposed, that the successor (at least any of those we have in this family, who have a true respect and love for the queen, and true honour and virtue in themselves) will ever be a cause of confusion in England, by his presence; this must be invented by those, who ought to be as much suspected as any, by all, who are for the Protestant Succession: And it carries so much malice and wild-fire in it, that I am afraid to touch it any more.

"As to the other methods proposed by the House of Lords, for the better securing of the Succession: though I have all the deference in the world for their lordships, as well as for the honourable House of Commons; yet I am persuaded, with great submission, that the parliament will yet think such measures not sufficient for these ends, and will, in time, consider of others more effectual. We hear from England, That the laws have been considered which relate to the administration of the government, in case a demise should happen during the absence of the successor; and that they are found defective. This may well be, for neither our ancestors or we did ever imagine, that any good Englishman would oppose the establishment of the rightful and lawful next, or presumptive protestant heir in the kingdom; but that he should be ready at hand to support the constitution, whenever the succession came to him. And this is more necessary at present, that ever; since there is a Pretender supported by France, who usurps the stile and title of king of England, to her majesty's

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great dishonour, and danger of the protestant succession.

"As for the Act to secure the queen's person and government, &c. The powers which the Lords Justices are to have, for the time being, must be very great; and may be liable to bring dangers, if not ruin to the kingdom, if they shall happen to fall into the hands of ill men. The heir being kept at a distance will not be able, in time of danger and confusion, to distinguish his friends from his enemies; since he will not be acquainted with the nobility and gentry, whom he would have known if he had been in the kingdom: And therefore will be under great difficulties how to name proper persons to join with the seven Lords Justices.

"Besides, it is very doubtful how far his orders and choice will be respected; for many pretences and measures may be put in practice by a powerful skill to elude them. Who can say what men will be in the great employments, when a demise may happen? Those we think the best friends to the succession may die before that time comes; and those whom we call Jacobites, or others who are such in their hearts, without being known, may yet come into those employments. The power of the nation both by sea and land, and even the treasure, may be in ill hands; and if this happens, they may dispose of the crown and succession as they please. One single person may usurp the power of all the Lords Justices and council, as it did fall out in Edward the 6th's time, by the subtilty of the duke of Northumberland, to the great prejudice of your lordship's family. And this hath often happened, both in England, and other countries, though criminals have been frequently punished.

"But such circumstances may be more dangerous in England at present, than people thought them in former ages. The happy criminals are always applauded, far from being punished. Such a single person at such a conjuncture may chuse to play the game of Cromwell, or that of Monk, for the false, or for the true heir.

"And the time may come, in which the Pretender, with the great foreign power, and the intrigues within the kingdom, may be able to gain more people than the Successor, being absent and destitute of the necessary supports, especially after the dissolution of the great alliance, which may justly be apprehended in time of peace; as it did happen after the treaties of Nimeguen and Ryswick, and as it is very like to fall out again after this war; if more effectual measures are not taken in the kingdom as well as abroad. And if the allies do not find their security in our constitution, and in the succession.

"The Lords have made an excellent Address to the queen, to maintain a good intelligence with the Allies and particularly with the States General. But it is to be wished that this good intelligence may be so extended, and that such measures may be taken, that we may be always certain of their assistance to secure the protestant succession.

"England and the States are the great support of the protestant religion and interest, and of the liberty of Europe. It is undoubtedly the interest and safety of both, always to maintain a good correspondence and true friendship. Therefore the wise and honest ministers on both sides will easily find the most proper means to prevent any quarrel, and will preserve a perfect union, which must be grounded upon the obligation and necessity of each others mutual defence. England may, and ought to depend on its own wisdom and force, to defend itself; being secured and quiet at home. And we have had hitherto the good fortune to preserve our liberties, when most other nations have lost theirs. But late experience has shewn us how near we may come to slavery by our negligence. And also, how necessary it may then be to recur to, and how dangerous to rely upon foreign aid, as to our own safety. We can be in no danger under her majesty's reign, and wise conduct. But we are to apprehend and prevent, to the utmost of our power, any ill accidents, that may befal us, when it may please God to take our good queen from us.

"Who knows what men or parties may rise up at home and abroad; We ought, therefore, like honest and wise men, to set things upon the best and surest foundations. At least we ought not to weaken the succession by neglecting the proper means for its security. It is true, that the invitation of the presumptive heir hath no negative put upon it: But it is also true, that if it had pleased our friends in parliament at this time, when they were a majority, to advise her majesty to it, in concurrence with others; that this would have better secured the protestant succession, and our constitution, than all the laws the nation can make.

"I pray, my lord, what will our acts of parliament, our oaths, the proclamation of the Successor, and even our Lords Justices signify, if the Successor is not certain of passing the sea, and of being possessed of the fleet, the troops, the treasure, the garrisons, the sea-ports, the Tower, and the city of London? The world will wonder at, and we shall deplore our fatal blindness; if we are capable of being amused by imaginary securities, and neglect, at this time of day, what is really necessary for our safety. Laws are no more than cobwebs against power and force.

"The History of England doth furnish us with many examples, which shew that the next heirs to the crown have been often excluded from the succession to it, by their being absent at the time of the demise. We have an instance now before us in Spain, which hath cost us much blood and treasure, and is like to cost us much more; besides, what England doth, and may suffer by the loss of that trade, which was next to that of our West Indies, the most profitable to us. For if king Charles had been in Spain before the death of the late king, it

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might in all probability, have prevented this general war; and the French king would never have attempted the conquest of Spain, if he had not had footing there before; nor the Spanish ministers have dared to do what they did, if the arch-duke had been present at Madrid. Therefore to hinder the next heir's coming into England, will be a very great reflection upon us: For it must tend to the destruction of, or at least, very much hazard our religion and liberties. And so we ought to consider of our dangers in due time; since it may so happen, that it may not be in our power to secure the coming over of the successor: And I will only mention what has been said in England, that we are not always sure of a protestant wind. A thousand other accidents may befal us, if we trust to the last extremity.

"Therefore we ought now to take right measures, that the successor may be always established, and sure to possess himself of the power, whenever it shall please God to afflict us with a demise: And that we may be as little exposed as is possible either to chance or treachery. The queen seems to be of this opinion, and all honest men ought, and will contribute all they can to make it agreeable and easy to her majesty. The electress, and the other princes of this family, do always praise and admire the care that the queen takes of the interest of Europe against our common enemy; and pray for her majesty's long life and happiness. God be thanked the queen is in good health, but alas! She is mortal, and must our safety depend upon an accident, that must befal the best of mankind?

"It is true, that the electoress hath many years more than her majesty, and that the queen is in the vigour of her age; and therefore, that the electoress is not like to survive her majesty; but our interest and safety consists in making such provision once for all, whether the electoress lives or not, that the next heir may be always present, or in a condition to be so; without which, in my humble opinion, we cannot be safe, otherwise than by an extraordinary providence. My lord Haversham hath always shewed himself so true a friend to this family and the constitution of England; that I thought no man could be more proper to be advised with upon the electoress's letter.

"I ask your lordship's pardon for troubling you with so long a letter; but I thought myself obliged in duty to my country, and friendship to you, to speak plainly upon this question, which contains the happiness or misery of England: And therefore I hope that all wise and honest men will take care how they decide it. I am, my lord, your lordship's, &c.

Hanover, Jan. 1st. R. GWYNNE.

Censure passed thereon.] After the reading of this Letter, the Commons resolved, "That it was a scandalous, false and malicious libel, tending to create a misunderstanding between her majesty and the princess Sophia, and highly reflecting upon her majesty, upon the princess Sophia, and upon the proceedings of both Houses of Parliament; that an humble Address should be presented to her majesty, that she would be pleased to give order for the discovery and prosecuting the author, printer and publishers of the said pamphlet, and that the said Resolutions should be communicated to the Lords at a conference, and their concurrence desired thereunto."

Address of both Houses to the Queen thereon.] Their lordships not only readily concurred with the Commons on the 11th, but likewise agreed upon an Address to be presented to her majesty, pursuant to the said Resolutions; to which Address they desired the concurrence of the Commons, who heartily joined with them, and so the next day both Houses presented the following Address to the queen;

"We your majesty's most dutiful and obedient subjects, the Lords spiritual and temporal and Commons in parliament assembled, beg leave to acquaint your majesty, that, having taken into serious consideration a printed pamphlet, entitled, 'A letter from sir Rowland 'Gwynne, to the right honourable the earl of 'Stamford,' we came to the following Resolution.—'That the said pamphlet is a scandalous, false and malicious libel, tending to 'create a misunderstanding between your majesty, and the princess Sophia, and highly reflecting upon your majesty, upon the princess Sophia, and upon the proceedings of 'both Houses of parliament.'—May it please your majesty, this seditious libel having been, of late, with great industry dispersed among your subjects, we humbly beseech your majesty to give strict orders for the discovery of the author, printer and publishers thereof, to the end they may be brought to condign punishment, according to the utmost rigour of the law. And we pray your majesty to use all means, which shall seem proper to your royal wisdom, for preventing such insolent and dangerous attempts for the future."

The Queen's Answer.] To this Address, the queen was pleased to give the following Answer:

"My Lords and Gentlemen; nothing can be more acceptable to me, than so seasonable an instance of your concern to preserve a good understanding besween me and the princess Sophia, and of your care to defeat the artifices of designing and malicious men. I am fully sensible of the very ill design of the paper, which you have so justly censured, and I will not fail to give the necessary directions for complying in the most effectual manner with all you desire in your address."*

* "The Whigs in this proceeding shewed themselves dupes to the court. The ministry had so many public and private reasons for carrying on the war, that they would not suffer the queen to be in the least put out of humour, as she would have been by any measures for bringing over the Protestant successor, which all good Englishmen who had no views but for the public heartily wished, and were not at all

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The Queen's Speech at the Close of the Session.] March 19. Her majesty came to the House of Peers, and after giving her assent to the several bills, made the following Speech to both Houses:

"My Lords and Gentlemen; Being now come to a close of this session, I am to return you my thanks, for having brought it so speedily to a good conclusion; especially for the wise and effectual provision made, to secure the Protestant Succession in this kingdom; and the great advances on your part, towards procuring the like settlement in the kingdom of Scotland, and a happy Union of both nations.—I am very well pleased likewise with the steps you have made, for the amendment of the law, and the better advancement of justice.—I must again repeat to you, gentlemen of the House of Commons, that I am extremely sensible of the dispatch you have given to the public supplies: I assure you, I will be very careful that they may be applied, in the most effectual manner, for our common interest.

"My Lords and Gentlemen; At the opening of this parliament, I recommended, with great earnestness, an entire union of minds and affections among all my subjects, and a sincere endeavour to avoid and extinguish all occasions of division and animosity. I am much pleased to find how entirely your sentiments have agreed with mine: your unanimity and zeal which I have observed with great satisfaction, throughout this whole session against every thing that tends towards sedition, doth so much discourage all such attempts for the future, and hath set such an example to the whole kingdom, that, when you are returned into your several countries, I doubt not but you will find the effects of it every where; and, I assure myself you will make it your business and care to improve and perfect that good work you have so far advanced here; and, by continuing to shew a just dislike of all factious and turbulent proceedings, and resolving to discountenance the encouragers and promoters of them, you will soon make the whole kingdom sensible of the good effects of so prudent and happy a conduct."

Then the lord keeper prorogued the parliament to Tuesday, the 21st of May next.*

Proceedings of the Commissioners for the Union.] During this recess, the grand affair of the Union of the two kingdoms took place. According to the powers given to the queen by the parliaments of England and Scotland, on the 10th of April she appointed the Commissioners on the part of England, the Commissioners on the part of Scotland having been named before, on the 27th of February. Mr. George Dodington was named secretary by the English, and sir Daniel Nairne by the Scots Commissioners. The persons who were appointed on the English side were well chosen. They were the most capable of managing the Treaty, and the best disposed to it of any in the kingdom.† The Scots Commissioners were so

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pleased with the conduct of the ministry on this occasion. Besides, there was an insincerity in it unworthy the character of the persons then in the administration, and more suitable to that of their successors: for they not only knew that sir Rowland Gwynn's Letter was genuine, but that her serene highness the princess Sophia had herself written a letter to the archbishop of Canterbury on the same subject. However, they were so very fearful of losing their hold of the queen, that they would rather venture the losing the protestant succession; for which they paid dearly enough, when Mr. Harley had thrust himself in between her and them. Sir Rowland Gwynn's letter was published by Charles Gildon, better known as a retainer to the stage, and the ministry ordered him to be prosecuted with the utmost severity; insomuch, that had it not been for Mr. Maynwaring's interposition, he had certainly stood in the pillory. He was fined above 100 times as much as he was worth, no less than 100*l.* sterling, which was also remitted by the good officers of the same worthy gentleman. To settle matters after this little shock between the courts of St. James's and Hanover, his highness prince George Augustus, electoral prince of Brunswick Lunenburgh, was elected knight of the garter, and it was resolved to send the lord Halifax to Hanover, not only to invest his highness with that order, but to confer with the electoress Dowager and the elector her son, on what had happened in England with relation to the contents of sir Rowland Gwynn's letter." Oldmixon.

* "Thus this session of parliament came to a very happy conclusion: there was in it the best harmony within both Houses, and between them, as well as with the crown, and it was the best applauded in the city of London, over the whole nation, and indeed over all Europe, of any session that I had ever seen: and when it was considered, that this was the first of the three, so that we were to have two other sessions of the same members, it gave an universal satisfaction, both to our own people at home, and our allies abroad, and afforded a prospect of a happy end, that should be put to this devouring war, which in all probability must come to a period before the conclusion of the present parliament. This gave an unspeakable satisfaction to all who loved their country and their religion, who now hoped that we had in view a good and a safe peace." Burnet.

† The ENGLISH COMMISSIONERS were:

Thomas, lord archbishop of Canterbury.

William Cowper, esq. lord keeper of the Great Seal of England.

John, lord archbishop of York.

Sidney, lord Godolphin, lord-high-treasurer of England.

Thomas, earl of Pembroke and Montgomery, president of the council.

John, duke of Newcastle, keeper of the privy-seal.

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strangely chosen, that from thence many concluded, that an Union was not sincerely designed by the ministry, when they saw such a nomination.* For they were not looked on as men well-affected to the design, many of them having stood out in a long and firm opposition to the Revolution, and to all that had been done afterwards pursuant to it. The nomination of these was fixed on by the dukes of Queensberry and Argyle. It was said by them, that, though these objections did indeed lie against them, yet they had such an interest in Scotland, that engaging them to be cordially for the Union would be a great means to get it agreed to in the parliament there. The earl of Stair, who heartily concurred in the design, was thought to have a hand in this piece of policy, in which the event shewed that right measures were taken. The Scots had got among them the notion of a Fœderal-Union, like that of the United-provinces, or the cantons of Switzerland. But the English resolved to lose no time, in the examining or discussing that project; for this reason, besides many others, that, as long as the two nations had two different parliaments, they could break the Union whenever they pleased; for each nation would follow their own parliament. The design was now to settle a lasting and firm Union between the kingdoms; therefore they resolved to treat only about an incorporating Union, that should put an end to all distinctions, and unite all their interests: so they at last entered upon the scheme of an intire Union.

On the 16th of April, the commissioners of both kingdoms met the first time, in the Council-Chamber in the Cock-pit near Whitehall, the place appointed for their conferences; and their commissions being opened and read by the secretaries, the Lord-Keeper of England, and the Lord Chancellor of Scotland, made introductory speeches; after which it was agreed, that copies of the two commissions should be prepared and signed by the respective secretaries, and interchanged against the next meeting, which was put off till the Monday following.

Accordingly, on the 22d of April, they met again, and the Lord Keeper delivered to the board the following preliminaries:

"1. That all proposals made by either side be made in writing, and every point, when agreed, reduced into writing. 2. That no points, though agreed on, and reduced into writing, be obligatory on either side, till all matters be adjusted in such a manner, as will be proper to be laid before the queen and the two parliaments for their approbation. 3. That there be a committee appointed, consisting of a certain number of each commission, to revise the minutes of what passes, which are not to be inserted by the secretaries in their respective books, but by order of the said committee, having first made report thereof to the respective commissioners, and received their approbation

William, duke of Devonshire, steward of the houshold.
Charles, duke of Somerset, master of the horse.
Charles, duke of Bolton.
Charles, earl of Sunderland.
Evelyn, earl of Kingston.
Charles, earl of Carlisle.
Edward, earl of Orford.
Charles, viscount Townsend.
Thomas, lord Wharton.
Ralph, lord Grey.
John, lord Paulet.
John, lord Somers.
Charles, lord Halifax.
John Smith, esq.
William Cavendish, marquis of Hartington.
John Manners, marquis of Granby.
Sir Charles Hedges, knt. and Robert Harley, esq. principal secretaries of state.
Henry Boyle, esq. chancellor and under-treasurer of the exchequer.
Sir John Holt, knt. chief justice of the court of Queen's Bench.
Sir Thomas Trevor, knt. chief-justice of the court of Common-pleas.
Sir Edward Northey, knt. attorney-general.
Sir Simon Harcourt, knt. solicitor-general.
Sir John Cook, knt. doctor of laws, advocate general.
Stephen Waller, doctor of laws.

* The SCOTS COMMISSIONERS were
James, earl of Seafield, lord chancellor of Scotland.
James, duke of Queensberry, lord privy-seal.
John earl of Mar, and Hugh, earl of Loudon, principal secretaries of state.
John earl of Sutherland, John earl of Morton, David earl of Wemys, David earl of Leven, John earl of Stair, Archibald earl of Roseberry, David earl of Glasgow, deputies of the treasury.
The lord Archibald Campbell, brother to the duke of Argyle.
Thomas, viscount Dupplin.
The lord William Ross, one of the Commissioners of the treasury.
Sir Hugh Dalrymple, president of the session.
Adam Cockburn, of Ormistown, lord-justice-clerk.
Sir Rob. Dundass, of Armistown, and Mr. Rob. Stuart, of Tillicultrie, lords of the session.
Mr. Francis Montgomery, one of the Commissioners of the treasury.
Sir David Dalrymple, one of her majesty's solicitors.
Sir Alexander Ogilvie, receiver-general.
Sir Patrick Johnstown, provost of Edinburgh.
Sir James Smallet, of Bonhill.
George Lockhart, of Carnwath.
William Morrison, of Preston-grange.
Alexander Grant.
William Seton, of Pitmeddon, jun.
John Clark, of Pennycook, jun.
Hugh Montgomery, late provost of Glasgow.
Daniel Stuart.
Daniel Campbell, of Arutennet.

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of the same. 4. That all the proceedings of the commissioners of both kingdoms, during the Treaty, be kept secret.

The Lord-Keeper also delivered to the board the following Proposal,

"That the two kingdoms of England and Scotland be for ever united into one kingdom, by the name of Great-Britain: that the United Kingdom of Great-Britain be represented by one and the same parliament; and that the succession to the monarchy of the United Kingdom of Great-Britain, in case of failure of heirs of her majesty's body, be, according to the limitations mentioned in an act of parliament, made in England in the 12th and 13th years of the reign of the late king William, intitled, An act for the further limitation of the crown, and the better securing the rights and liberties of the subject."

After this the Commissioners adjourned to the 24th of the same month, when the Lord-Chancellor of Scotland acquainted the board, that the commissioners of Scotland did agree to the preliminary articles proposed at the last meeting, for regulating the method of proceeding in this Treaty: and then he delivered to the board the following Proposals:

"1. That the succession to the crown of Scotland, in case of failure of heirs of her majesty's body, should be established upon the same persons mentioned in an act of parliament made in England, in the 12th and 13th years of the reign of the late king William. 2. That the subjects of Scotland should for ever enjoy all rights and privileges, as natives of England, in England, and the dominions thereunto belonging; and reciprocally, that the subjects of England enjoy the like rights and privileges in Scotland. 3. That there be a free communication and intercourse of trade and navigation between the two kingdoms and plantations thereunto belonging, under such regulations, as, in the progress of this Treaty, shall be found most for the advantage of both kingdoms. 4. That all laws and statutes in either kingdom, contrary to the terms of this Union, be repealed."

The Commissioners for England, after a short consultation by themselves, returned an Answer:

"That they were so fully convinced, that nothing but an intire Union of the two kingdoms would settle perfect and lasting friendship between them, that they therefore thought fit to decline entering into any further consideration upon the proposals now made by the commissioners for Scotland, as not tending to that end; and desired, that the commissioners for Scotland would give in their Answer to the Proposal delivered by the commissioners for England, in order to an entire Union of both kingdoms."

The next day the Lord-Chancellor, in the name of the commissioners for Scotland, delivered to the board the following Answer:

"The commissioners for Scotland have considered the proposal given in to them by the commissioners for England, on Monday the 22d instant; and do agree, that the kingdoms of Scotland and England be for ever united into one kingdom, by the name of Great Britain: that the united kingdom of Great-Britain be represented by one and the same parliament: and that the succession to the monarchy of the kingdom of Great-Britain, in case of failure of heirs of her majesty's body, shall descend upon the most excellent princess Sophia, electress and duchess dowager of Hanover, and remain to her and the heirs of her body, being protestants, with this provision, That all the subjects of the united kingdom of Great-Britain shall have full freedom and intercourse of trade and navigation, to and from any part or place within the United Kingdom, and plantations thereunto belonging; and that there be a communication of all other privileges and advantages, which do or may belong to the subjects of either kingdom."

After a private consultation, the Lord-Keeper in the name of the Commissioners for England, delivered to the board this reply.

"The commissioners for England are of opinion that the provision added by the commissioners of Scotland, to the proposal made by the commissioners for England, on the 22d instant, is a necessary consequence of an entire Union; and therefore their lordships do agree to that provision, under such terms, as in the further progress of this Treaty shall be found to be for the common advantage of both kingdoms."

The same day, in pursuance of the third preliminary, a committee was appointed for revising the Minutes; and there were nominated, on the part of England, the lord Grey; Mr. John Smith, Speaker of the House of Commons, sir Thomas Trevor, sir John Cook, and Dr. Waller, or any three of them; and on the part of Scotland, the earl of Sutherland, the earl of Leven, the lord president of the session, the lord Justice Clerk, John Clark of Pennycook, or any three of them.

Four days after, the commissioners met again, and the Lord-Keeper delivered to the board the following Proposal: That there be the same customs, excises, and all other taxes; and the same prohibitions, restrictions, and regulations of trade throughout the united kingdom of Great-Britain. Hereupon the Scots commissioners proposed, That a committee be appointed of an equal number of each side, to adjust the several points contained in that proposal; and desired, that the English commissioners would order the account of the taxes and other things, to be laid before the committee.

The English Commissioners having proposed to appoint a committee to consist of eleven of each side, and of them any six to have power to proceed, and that they should be nominated the next meeting; this was readily agreed to by the Scots; and accordingly, on the 1st of May, the commissioners proceeded to the nomination of the committee. The English named the dukes of Somerset and Bolton, the earl of Sunderland, the lords Townshend, Wharton, and Somers, the Speaker of the House of

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Commons, the marquis of Hartington, Mr. secretary Harley, Mr. Henry Boyle, and sir Simon Harcourt. The Scots appointed the lord-chancellor, the duke of Queensberry, the earls of Sutherland, Leven, and Stair, the lord Duplin, the lord-president of the session, the lord-justice-clerk, and sir Patrick Johnstoun: and it was agreed, that this committee should meet the next morning, and have power to adjourn themselves.

On the 21st of May, when the Treaty was pretty well advanced, the queen went to the meeting, and told the commissioners, "That she was so much concerned for the Union of the two kingdoms, that she could not satisfy herself without coming, before she went out of town, to see what progress they had made in the Treaty, and to recommend very earnestly to them the bringing it to a happy conclusion, with as much dispatch, as the nature of it would admit; not doubting of the general satisfaction, which her subjects of both kingdoms would receive, in finding them to overcome all difficulties to attain so great and public a good."

When she had done speaking, the Lord-Keeper desired to know, if she would hear the Proposals, made on either side, and the Resolutions taken thereupon, read by the secretaries; which she allowed of, and then retired.

About a month after, the queen came again to their meeting, and told the Commissioners, "That she was come thither once more to see what further progress they had made in the Treaty, and to press a speedy conclusion of it, in regard her servants of Scotland could not, without great inconveniency, be much longer absent from that kingdom." Upon this, in the thirty fifth meeting, on the 28th of June, the English commissioners proposed, that four commissioners of each part be appointed to draw up into form the Articles of the Treaty, upon the points already agreed, or which which should afterwards be agreed. To which the Scots commissioners having consented, the Articles were brought to perfection by the 22d of July, when the commissioners of both kingdoms signed and sealed the instruments, and ordered, that the respective secretaries of each commission should sign each other's journals of the proceedings, and afterwards enter in the journals the Articles of the Treaty of Union.

The next day, the commissioners for both kingdoms went from the Cockpit to attend the queen at St. James's, where the Lord-Keeper, in the name of the commissioners for England, presented to her majesty one of the signed and sealed instruments containing the Articles of the Union, and made the following Speech:

"May it please your majesty;

"We the commissioners appointed by your majesty, in pursuance of the act of parliament passed in your kingdom of England, to treat concerning an Union of the two kingdoms with the commissioners of Scotland, do (according to our duty) humbly beg leave to present to your majesty these the effects of our continued and faithful endeavours to that end.—They are Articles agreed upon between your commissioners of both kingdoms, as the terms or conditions upon which the intended Union is to take place, if your majesty, and the parliaments of both kingdoms, shall think fit to approve and confirm the same.—In these we have come to an agreement on every point we judged necessary to effect a complete and lasting Union; and we have endeavoured not to stir into any matter we had reason to think was not so.—And although we have unanimously carried this Treaty thus far, purely from a conviction, that we have done therein to God, your majesty, and our countries good service; yet we are far from thinking, that what we have done, will or ought to be of any weight or authority elsewhere; but do most intirely submit these our labours to the high wisdom of your majesty and both your parliaments, to stand or fall by the reason, justice, and public utility, on which they are founded —Your majesty's royal presence and seasonable admonitions to us, at the fittest junctures were (we most thankfully acknowledge) a very great encouragement and assistance to us in the difficulties we met with.—Your majesty's glory is already perfect; and the finishing this work is all that is wanting, to complete as well as secure the happiness of so great a people as your subjects may now, without any arrogance, pretend to be.—May your majesty live, not only to give sanction to this universal blessing to all your people, but also to see, in a long and prosperous reign over us, the many immediate or near good effects of it. But as for than great and main consequence of it, for which your majesty is making, by a most gracious and charitable foresight, this only effectual provision; I mean, the continuance of peace and tranquillity in this island, upon a descent of the crown, instead of that bloodshed and destruction which would probably follow upon the fatal division of it;—May we be so happy, as never, in our days, to experiment the fitness of these measures your majesty is now taking for that end; but may late, very late, posterity only in that respect reap the advantage of them."

Then the Lord Chancellor of Scotland, in the name of the commissioners for that kingdom, presented also to her majesty one of the signed and sealed instruments of the Articles of Union, on the part of Scotland, with the following Speech:

"May it please your majesty;

"The commissioners, appointed by your majesty for the kingdom of Scotland to treat of an Union of your two kingdoms of Scotland and England, have commanded me to return your majesty their most humble and dutiful acknowledgments, for the honour your majesty has conferred on them, in employing them to negotiate this most important affair, which is of the greatest consequence to all your majesty's subjects.—We have endeavoured to discharge this trust with all fidelity; and are now come humbly to lay before your majesty the Articles

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and conditions of Union, which we have treated of, and agreed upon, and do submit them to your majesty's royal consideration.—It is a great satisfaction to us, that what we have concluded in this matter has been done with unanimity. And we must own, that the knowledge we had of your majesty's great concern for uniting your two kingdoms, and the earnestness with which your majesty has been most graciously pleased to recommend it, hath enabled us to bring this Treaty to a happy and speedy conclusion, to the mutual satisfaction of the commissioners on both sides; and we shall esteem it our greatest happiness, if what we have prepared be acceptable to your majesty, and ratified by the parliaments of both kingdoms, without which what we have done can be of no authority.—An Union of the two kingdoms has been long wished for, it being so necessary for establishing the lasting peace, happiness, and prosperity of both nations. And though it has been frequently endeavoured by your majesty's royal predecessors without the desired success; yet the glorious successes, with which God has blessed your majesty's endeavours for the happiness of your people, make us hope, that this great work is reserved to be accomplished in your majesty's reign."

After which, the Queen was pleased to make the following Speech:

"My Lords;

"I give you many thanks for the great pains you have taken in this Treaty, and am very well pleased to find your endeavours and applications have brought it to so good a conclusion. The particulars of it seem so reasonable that I hope they will meet with approbation in the parliaments of both kingdoms. I wish therefore, that my servants of Scotland may lose no time in going down to propose it to my subjects of that kingdom: and I shall always look upon it as a particular happiness, if this Union, (which will be so great a security and advantage to both kingdoms) can be accomplished in my reign."

The same day, the queen being in council, an Order was made, importing that whosoever should be concerned in any seditious discourse, or libel, or laying wagers relating to the Union, should be prosecuted for such their offences, according to the utmost rigour of the law.

The lord Somers had the chief hand in projecting this scheme of the Union, into which all the commissioners of the English nation went very easily. The advantages, that were offered to Scotland in the whole frame of it, were so great and so visible, that nothing but the consideration of the safety, that was to be procured by it to England, could have brought the English to agree to a project, that, in every branch of it, was much more favourable to the Scots nation. The Scots were to bear less than the fortieth part of the public taxes. When four shillings in the pound were levied in England, amounting to 2,000,000*l.* Scotland was only to be taxed at 48,000*l.* which was eight months] assessment of the 6,000*l.*, which they had been accustomed for some years to pay, and which, they said, was all that the nation could bear. It is held a maxim, that, in the framing of a government, a proportion ought to be observed between the share in the legislature, and the burden to be borne. Yet in return of the fortieth part of the burden, the Scots were offered near the eleventh part of the legislature. For the peers of Scotland were to be represented by sixteen Peers in the House of Lords; and the Commons, by forty-five members in the House of Commons; and these were to be chosen, according to the methods to be settled in the parliament of Scotland. And since Scotland was to pay customs and excises on the same foot with England, and was to bear a share in paying much of the debt, which England had contracted during the war; 398,000*l.* was to be raised in England, and sent into Scotland, as an equivalent for that; and this was to be applied to the recoining the money, that all might be of one denomination and standard; and to the payment of the public debts of Scotland, and repaying to the African company all their losses with interest; upon which that company was to be dissolved; and the overplus of the equivalent was to be applied to the encouragement of manufactures. Trade was to be free all over the island, and the plantations; private rights were to be preserved; and the judicatories and laws of Scotland were still to be continued. But all was put, for the future, under the regulation of the parliament of Great Britain; the two nations now were to be one kingdom, under the same succession to the crown, and united in one parliament. There was no provision made in this Treaty with relation to religion; for in the acts of parliament in both kingdoms, which impowered the queen to name commissioners, there was an express limitation, that they should not treat of those matters.

This was the substance of the Articles of the Treaty, which when they came to be laid before the Parliament of Scotland, met with great opposition.*

The Summer's Exploits.] May the 14th. The duke of Marlborough set out for Holland; and, August the 12th, he obtained a complete victory over the French, commanded by the elector of Bavaria and marshal Villeroy, at Ramillies; which was followed by a general Revolution in the Low Countries in favour of king Charles.

In Italy, enabled by a loan of 250,000*l.* from England, prince Eugene, after thirty four marches to join the duke of Savoy, offered battle to the French, who laid siege to Turin; and after two hours engagement, in which the marshal Marsin was killed, and the duke of Orleans wounded, utterly defeated them, seized

* The Proceedings of the Parliament of Scotland, together with the Articles of the Union, will be found in the Appendix to the present volume.

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on their camp, tents, baggage, &c. and relieved that capital.

In Spain, king Charles was closely besieged in Barcelona, by the marshal de Thesse by land, and the count de Thoulouse by sea; but was most opportunely relieved by the gallant earl of Peterborough and sir John Leake; the count de Thoulouse not staying till the English fleet appeared in sight, and the marshal de Thesse decamping with the utmost confusion a few days after, and leaving his ammunition, stores, tents, and even his sick and wounded men, at the mercy of the enemy.

SECOND SESSION OF THE SECOND PARLIAMENT OF QUEEN ANNE.

The Queen's Speech on opening the Session.] December 3, 1706. It was the general opinion, and perhaps the first resolution of the court, that the parliament of England should not sit, till that of Scotland had finished the affair of the Union; but, that drawing into a great length, and the queen's occasions not admitting of delays, the parliament of England, which on the 21st of November, had been further prorogued to the 3d of December, met this day at Westminster; and the queen, being come to the House of Peers with the usual solemnity, made the following Speech to both Houses:

"My Lords, and Gentlemen; I hope, we are all met together at this time with hearts truly thankful to Almighty God, for the glorious successes, with which he has blessed our arms, and those of our Allies, through the whole course of this year; and with serious and steady resolutions to prosecute the advantages we have gained, till we reap the desired fruit of them, in an honourable and durable peace.—The goodness of God has brought this happy prospect so much nearer to us, that, if we be not wanting to ourselves, we may, upon good grounds, hope to see such a balance of power established in Europe, that it shall no longer be at the pleasure of one prince, to disturb the repose, and endanger the liberties, of this part of the world.—A just consideration of the present posture of affairs, of the circumstances of our enemies, and the good disposition of our Allies, must needs excite an uncommon zeal, and animate us to exert our utmost endeavours, at this critical conjuncture.

"Gentlemen of the House of Commons; As I am fully persuaded, you are all of this mind; so I must earnestly desire you to grant me supplies, sufficient for carrying on the war next year in so effectual a manner, that we may be able to improve every where the advantages of this successful campaign: And, I assure you, I shall make it my business to see all you give, applied to those ends, with the greatest care and management.

"My Lords, and Gentlemen; In pursuance of the powers, vested in me by act of parliament, both in England and Scotland, I have appointed commissioners, to treat of an Union between the two kingdoms: And though this be a work of such a nature, as could not but be attended with great difficulties; yet such has been the application of the commissioners, that they have concluded a Treaty, which is at this time before the parliament of Scotland; and, I hope, the mutual advantages of an entire Union of the two kingdoms will be found so apparent, that it will not be long before I shall have an opportunity of acquainting you with the success which it has met with there.—Your meeting at this time being later than usual, I cannot conclude, without earnestly recommending to you to give as much dispatch to the public affairs as the nature of them will admit; it being of the greatest consequence, that both our friends and our enemies should be fully convinced of your firmness, and the vigour of your proceedings."

The Lords' Address thereon.] Dec. 4. The Lords presented the following Address:

"May it please your majesty; We, your majesty's most dutiful and obedient subjects, the Lords spiritual and temporal in parliament assembled, with hearts full of joy, beg leave to congratulate your majesty upon occasion of the many great successes obtained by your majesty's arms, and those of your allies, in all places, during this wonderful year. We could not hope for any thing more glorious, than the opening the campaign by the ever-memorable victory gained at Ramillies, under the command of your majesty's wise and valiant general the duke of Marlborough; and nothing could be more seasonable, at the close of the campaign, than the complete victory gained by the duke of Savoy and prince Eugene, before the walls of Turin. The illustrious consequences of those two battles made it impossible for your enemies to disguise their losses; and demonstrated to the world, that never any generals better understood how to make use of their success. And if we, your majesty's subjects, should not do all that lies in our power, towards improving the advantages which the divine Providence has given to your majesty and your allies; we should shew ourselves unthankful to God, inexcusable to your majesty, and manifestly wanting to our country, and the common cause of Europe.—We cannot sufficiently express the universal pleasure and satisfaction of your people, upon the public declaration which your majesty, in concert with the States General, made to the ministers of the other confederate princes, 'That no negotiations of peace should 'be entered into, but in conjunction with all 'the Members of the Grand Alliance.' This generous method will prevent the indirect and dangerous practices of the common enemy, will put a stop to clandestine and corrupt transactions; and must not only remove all present jealousies from the allies, but create in them a lasting confidence and reliance on your honour and justice.—Your majesty's example, and that of the States General, ought to inspire all the other allies with a noble emulation of acting

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with the like vigour. If any of them have been failing for the time past, we hope your majesty will find proper means to let them see, that the only right amends they can make to the cause of liberty, is by doubling their efforts at this important conjuncture.—This will be the true way to obtain such a peace as all good men desire; which may secure to your majesty's subjects the Protestant Succession, and all the advantages of trade and commerce; may restore the whole monarchy of Spain to king Charles the Third; may fix such a barrier for the States General (in whose security we must always think the interest of England is engaged) as may be to their just satisfaction; and may procure such terms and conditions for all the allies, as may be just, safe, and honourable; such a peace as may be durable and lasting, by reducing effectually the exorbitant power of a prince, whose restless ambition nothing could satisfy, and who has always despised the obligations of the most sacred leagues and treaties.

"Most gracious sovereign; We cannot omit to make our most thankful acknowledgments, of our universal happiness under your just and mild government; of your true zeal for the safety and honour of the church of England; of your great care for the due administration of justice, and your tender regard for the properties and liberties of your people; but, in a particular manner, we must own, with all gratitude, your majesty's wisdom and foresight, as well as your goodness, in your royal endeavours, to bring to pass an entire and complete Union of your two kingdoms of England and Scotland. May God Almighty make these your glorious designs successful! and may your majesty long reign over us, to see the happy fruits of them, in the safety, tranquillity, wealth, honour, and flourishing estate, of your majesty's united people!"

The Queen's Answer.] Her majesty's Answer was as follows:

"My lords; I am very much pleased with the many expressions of your affection for my service, and of your zeal for the common cause, in the several particulars of this Address, which is entirely to my satisfaction, and I assure myself it will have its just weight both at home and abroad."

The Commons' Address.] The Address of the Commons was as follows:

"Most gracious Sovereign; We, your majesty's most dutiful and loyal subjects, the Commons, in parliament assembled, return your majesty our humble thanks for your most gracious speech from the throne.—And, with all thankfulness to Almighty God, we congratulate your majesty upon the signal victory obtained by your arms, and those of your allies, under the command of the duke of Marlborough, at Ramillies; a victory, so glorious and great in its consequences, and attended with such continued successes, through the whole course of this year, that no age can equal.—And as your majesty's allies have shewed their firmness and good disposition to carry on the war with vigour, so the Commons of England are determined, that no specious pretences of peace shall divert them from their steady resolutions of enabling your majesty to improve, in all places, the advantages of this successful campaign.—The experience your Commons have had of the prudent administration, and the great care and management in the application of the public aids, encourage us to assure your majesty, that we will chearfully give such speedy and effectual supplies, as, by the continuance of God's blessing upon your majesty's arms, may establish the balance of power in Europe, by a safe, honourable, and lasting, peace.—We beg leave likewise to return your majesty our hearty thanks, for your promoting the Union betwixt England and Scotland; whereby your majesty shews your great concern and tenderness, not only for the present, but the future happiness of both kingdoms."

The Queen's Answer.] The Queen gave this Answer:

"Gentlemen; I thank you heartily for this Address, and the assurances of giving me effectual supplies to carry on the war, and to obtain a safe and honourable peace.—I am glad to find, you are so well satisfied with the application of the public money.—As to the matter of the Union with Scotland, so in all other things, I shall still be desirous to promote the present and future happiness of my people."

Thanks given to the Duke of Marlborough.] Dec. 5. The Duke of Marlborough being this day present, and in his place in the House of Peers, the Lord Keeper gave him the Thanks of this House, as follows:

"My Lord Duke of Marlborough; I am commanded by this House to give your grace their Acknowledgment and Thanks, for the eminent services you have done, since the last session of parliament, to her majesty and your country, together with their confederates, in this just and necessary war.—Though your former successes against the power of France, while it remained unbroken, gave most reasonable expectations, that you would not fail to improve them; yet what your grace hath performed this last campaign, has far exceeded all hopes, even of such as were the most affectionate and partial to their country's interest and your glory.—The advantages (I use the lowest expressions for every thing) which you have gained against the enemy, are of such a nature, so conspicuous in themselves, and so undoubtedly owing to your courage and conduct, so sensibly and universally beneficial in their consequences to the whole confederacy, that to attempt to adorn them with the colouring of words, would be vain and inexcusable; and therefore I decline it, the rather because I should certainly offend that great modesty, which alone can, and does add a lustre to your actions, and which, in your grace's example, has successfully withstood as great trials, as that virtue has met with in any instance whatsoever.—Only I beg leave to say, that if any thing could move your grace to reflect with much satisfaction on your own merit, it would

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be this, that so august an assembly does with one voice praise and thank you; an honour, which a judgment, so sure as that of your grace's, to think rightly of every thing, cannot but prefer to the ostentation of a public triumph."

To which His Grace replied, as follows:

"I esteem this as a very particular honour, which your lordships are pleased to do me: nobody in the world can be more sensible of it than I am, nor more desirous to deserve the continuance of your favour and good opinion."

A Committee of the House of Commons also attended the Duke, to give him Thanks for his eminent services to her majesty and this kingdom, in the great and glorious victory and successes obtained over the enemy the last campaign: And his grace made them this Answer: "If any thing could add to my satisfaction in the services I have endeavoured to do to the queen and my country, it would be, the particular notice which the House of Commons is pleased to take of them, so much to my advantage."

Manor of Woodstock settled on the Duke of Marlborough.] Dec. 20. A Bill from the Lords for settling the honours and dignities of John duke of Marlborough, upon his posterity, and annexing the honour and manor of Woodstock, and House of Blenheim, to go along with the said honours, was read three times by the Commons, and passed nem. con.*

Supplies granted.] Dec. 21. There was now so good an understanding between the ministry and the House, that they voted all the supplies for the fleet and army in less than a week: so that, this day the queen came to the House of Peers, and, having sent for the Commons, the Speaker presented the bills, and made a speech importing, "That as the glorious victory obtained by the duke of Marlborough at Ramillies was so surprizing, that the battle was fought before it could be thought the armies were in the field, so it was no less surprizing, that the Commons had granted supplies to her majesty, before her enemies could well know that her parliament was sitting."

The Queen's Speech on passing the Money Bills.] After which her majesty gave the royal assent to the Land-Tax Bill (4*s.* in the pound,) the Malt Bill; an Act for settling the honour and dignities of the duke of Marlborough, upon his posterity, together with the manor of Woodstock, &c. And her majesty afterwards made the following Speech to both Houses:

"My Lords and Gentlemen; I am glad of this occasion to repeat to you my great satisfaction in your several Addresses presented to me in the beginning of this Session.—The zeal and affection which you expressed in them for my service, and the common cause of Europe, cannot fail of being a great encouragement to all our allies.—The particular notice which you have taken of the eminent services of the duke of Marlborough is also very agreeable to me, and I make no question but it will be so to the whole Kingdom.

"Gentlemen of the House of Commons; I am to thank you in a very particular manner, for the more than usual dispatch of the Bills of Supply, with which you have presented me.—This will enable me to put all our necessary preparations for next year into a great forwardness, and must needs have a very good effect for improving the advantages of the last campaign.

"My Lords and Gentlemen; I suppose you will think it convenient to make some short recess during the holidays.—The zeal and unanimity you have already shewn, are a sufficient assurance to me, that you will all return in the same good temper and disposition to dispatch what remains of the public business."*

* The Creations and Promotions at this time were as follows: Towards the middle of December the queen was pleased to create Henry, earl of Kent, lord chamberlain of her houshold, viscount Goderick in the county of Hereford, earl of Harrold in the county of Bedford, and marquis of Kent. A few days after her majesty was also pleased to create Robert, earl of Lindsey, lord great chamberlain of England, marquis of Lindsey in the county of Lincoln; Evelyn, earl of Kingston, marquis of Dorchester in the county of Dorset; Thomas, lord Wharton, viscount Winchendon in the county of Bucks, and earl of Wharton in the county of Westmoreland: John, lord Poulet, of Hinton St. George in the county of Somerset, earl Poulet; Sidney, lord Godolphin, lord high-treasurer of England, viscount Rialton, and earl of Godolphin in the county of Cornwall; Hugh lord Cholmondeley, viscount Malpas, and earl of Cholmondeley in the county of Chester; Henry, lord Walden, son and heir apparent of Henry, earl of Suffolk, baron of Chesterfield in the county of Essex, and earl of Bindon in the county of Dorset; the lord keeper, a peer of this kingdom by the name and title of William, lord Cowper, baron of Wingham in the county of Kent; and Sir Thomas Pelham, bart. likewise a peer by the name and title of lord Pelham, baron of Laughton in the county of Sussex.

* "The queen closed the year with two triumphal processions. At the request of the city of London, she ordered that the standards and colours taken at the battle of Ramillies, and which were lately brought from the Netherlands, should be put up in Guildhall, as trophies of that victory. This was done with great solemnity on the 19th of December. Soon after the queen having, by proclamation, appointed a general thanksgiving for the great successes of her arms, and those of her allies, the last campaign, she went to the cathedral of St. Paul's, attended by both Houses of Parliament, the great officers of state, the judges, and other public officers. The bishop of Salisbury preached the sermon upon this occasion." Tindal.

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The Commons' Address in favour of the Duke of Marlborough.] January 7, 1707. The Commons having taken into consideration the eminent services of John duke of Marlborough, whereby the glory of her majesty's government, the honour and safety of the kingdom, and the interest of the common cause had been so highly advanced, agreed upon the following Address to the queen:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons of England in parliament assembled, taking into our consideration the many eminent services of John duke of Marlborough, whereby the glory of your majesty's government, the honour and safety of your kingdoms and the interest of the common cause have been so highly advanced, do, with all submission, address ourselves to your majesty's most sacred person, humbly to desire, That, as your majesty is, at your expence, graciously pleased to erect the house of Blenheim, as a monument of his glorious actions, and the House of Peers, by your majesty's permission, have given rise to a law for continuing his honours to his posterity, we, your majesty's obedient Commons, may be permitted to express our sense of so distinguishing a merit, and our ready disposition to enable your majesty to make some provision for the more honourable support of his dignity in his posterity, in such manner as shall be most agreeable to your majesty.—Thus the gratitude of the whole kingdom will remain upon record to after-ages, and encourage others to follow his great example."

The Queen's Answer.] This Address being the next day presented to the queen by the whole House, her majesty was pleased to answer in these words:

"Gentlemen; I am very glad you have so just a sense of the repeated services of the duke of Marlborough; I will consider of your Address, and return an Answer very speedily."

The Queen's Message concerning the Duke of Marlborough.] Accordingly, on the 9th, Mr. Secretary Harley delivered to the House the following Message, signed by her majesty:

"ANNE *R.*

"Her majesty, in consideration of the great and eminent services performed by the lord Marlborough in the first year of her reign, as well by his prudent negotiations as her plenipotentiary at the Hague, as by his valour and good conduct in the command of the confederate armies abroad, thought fit to grant to him and the heirs male of his body, the title of a duke, of this realm, and as a farther mark of her favour and satisfaction with his services, and for the better support of his dignity, her majesty granted to the said duke and the heirs male of his body during his life, a pension of 5,000*l* per annum, out of the revenue of the Post-office; and an act having passed the sessions for settling the honours and dignities of the duke of Marlborough upon his posterity, and annexing the honour and manor of Woodstock, and House of Blenheim, to go along with the said honours, it would be very agreeable to her majesty if the pension of 5,000*l.* per annum, be continued and limited by act of parliament to his posterity, for the more honourable support of their dignities, in like manner as his honours, and the honour and manor of Woodstock and House of Blenheim, are already limited and settled. Kensington, Jan. 9, 1706-7."

Vote thereon.] Upon the reading of this Message, the House resolved, "That a Bill be brought in for continuing and settling upon John duke of Marlborough and his posterity the pension of 5,000*l.* per annum, (already granted by her majesty) for the more honourable support of their dignities, in like manner as his honour and dignities, and the honour and manor of Woodstock and House of Blenheim, are already limited and settled; and that Mr. Secretary Harley, Mr. Chancellor of the Exchequer, lord Granby, Mr. Solicitor-general, col. Strangwayes, Mr. Verney, Mr. Fortman and Mr. Lowndes, do prepare and bring in the Bill."

Resolutions about the Supply.] There being several Establishments and Accounts relating to the Army, Navy and Victualling, laid before the Commons: the House agreed with the committee in the following Resolutions:

1. "That 49,000*l.* be granted to her majesty, for the payment of another year's interest of the unsatisfied debentures charged upon the Irish forfeitures. 2. That a further sum of 10,000*l.* be allowed to the office of Ordnance, towards making a wharf and storehouse at Portsmouth. 3. That 120,000*l.* be granted to her majesty for the Land-Service, to be performed by the office of Ordnance for the year 1707. 4. That 144,000*l.* be granted to her majesty, towards defraying the charge of transporting Land-Forces. 5. That 3,500*l.* be granted to her majesty, for the charge of circulating Exchequer-Bills for another year."

Then Mr. St. John presented to the House an Account of some extraordinary Charges of the War, not provided for the last session of parliament, or incurred since; and also of the extraordinary Charges of the war in the years 1705, and 1706, for Horses.

Further Resolutions.] The next day the Commons went again upon the Supply, for the service of the year 1707, in a Committee of the whole House, and came to several Resolutions, which were on the 11th reported to the House, and agreed unto, viz.

1. "That 37,500*l.* be granted to defray the proportion of the Subsidies payable to the king of Denmark. 2. That 150,000*l.* be granted to defray the proportion of the Charges of 13,000 men in the service of the king of Portugal. 3. That 160,000*l.* be granted to defray the proportion of the Subsidies payable to the duke of Savoy. 4. That 5,952*l.* 7*s.* 6*d.* be granted to defray the proportion of the Subsidies payable to the landgrave of Hesse-Cassel. 5. That 5,952*l.* 7*s.* 6*d.* be granted to defray the proportion of the Subsidies payable to the Elector of Treves. 6. That 4,761*l.* 18*s.* 6*d.* be granted to

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defray the proportion of the Subsidies payable to the Elector Palatine. 7. That 50,000*l.* be granted to defray the proportion of the Charge of 8,000 men sent to the assistance of the duke of Savoy.* 8. That 445,350*l.* 14*s.* 2*d.* be granted for defraying the Charge of maintaining 20,562 men, part of her majesty's forces, to be employed in Spain or Portugal, and for the general officers, contingences, hospitals, forage and waggon-money, and for the garrison of Gibraltar, and for general officers serving the king of Portugal, for the year 1707. 9. That 186,296*l.* 4*s.* 2*d.* be granted for defraying the Charge of maintaining 8,833 men (additional forces) to be employed in Spain or Portugal, and for the general officers and Contingences, for the service of the year 1707. And lastly, 10. That an humble Address be presented to her majesty, That she will be pleased to give order, that the Treaty with the king of Prussia in the year 1706, and also the Treaty with the landgrave of Hesse-Cassel, may be laid before this House.

Jan. 13. Mr. Secretary Harley laid before the House, by her majesty's order, the Treaty for repartition of the Prussian troops, Hague, November 24, 1706. And also, the ratification of the Treaty for the march of the Hessian troops to Italy, concluded May 20, 1706. The consideration whereof was referred to the grand committee for the Supply. And on the 16th the Commons ordered the Commissioners of Trade to lay before their House a State of the Newfoundland trade, in relation to the fishery. And Mr. Secretary Harley presented to the House a Representation from the Lords Commissioners of Trade and Plantations, relating to the trade with Flanders: And extracts of letters from Mr. Stepney, her majesty's Envoy at Brussels, relating to trade; The consideration whereof was referred to the committee for the whole House, who were to consider of the Trade of ths kingdom.

The Sums advanced, voted to have been expended for the Safety and Honour of the Nation.] Jan. 27. A motion being made, That the several sums of money for the extraordinary services for the year 1706, which had been agreed to by the House, had been advanced and expended for the preservation of the duke of Savoy, for the interest of king Charles the 3d in Spain, against the common enemy, and for the safety and honour of the nation: And the previous question put, That the question be now put, it was resolved in the affirmative. Then the main question being put, it was carried, by a majority of 250 voices against 150*.

Debate in the House of Lords, on the Earl of Nottingham's Motion, that the Proceedings on the Union may be laid before the Lords.] Jan. 10. The Earl of *Nottingham*†, acquainted the

* "All things were very quiet in parliament till the Christmas holidays, but the cabals of that recess produced fresh play: the first attack was in the committee of supply, where a demand was made for nine hundred and odd thousand pounds advanced to the duke of Savoy and prince Eugene, expended on my lord Rivers's expedition over and above the Supplies given the last session of parliament; they carried this so far that they moved a censure upon the ministry for it; it was a long and warm debate, and upon the division we carried it in favour of the service, 211 against 105." Letter from Robert to Horace Walpole. Feb. 12, 1706-7. Coxe's Walpole, vol. 2. p. 6.

* "The grant of the Supplies went on quicker than was usual. There was only one particular, to which great objections were made: Upon the great and early success of the former campaign, it was thought necessary to follow that, with other projects, that drew on a great expence, beyond what had been estimated, and laid before the parliament. An embarkation, first designed against France, and afterwards sent to Portugal; and the extraordinary Supplies, that the duke of Savoy's affairs called for, amounted to about 800,000*l.* more, than had been provided for by parliament. Some complained of this, and said, that if a ministry could thus run the nation into a great charge, and expect that the parliament must pay the reckoning, this might have very ill consequences. But to this it was answered, that a ministry deserved public thanks, that had followed our advantages, with such vigour: If any thing was raised without necessity, or ill applied, under the pretence of serving the public, it was very reasonable to enquire in it, and to let it fall heavy on those, who were in fault: But if no other exception lay to it, than because the matter could not be foreseen, nor communicated to the parliament, before those accidents happened, that occasioned the expence, it was a very unjust discouragement, if ministers were to be quarrelled with, for their care and zeal; So it was carried by a great majority, to discharge this debt. All the other Supplies, and among them the equivalent for Scotland, were given, and lodged on good funds: So that no session of parliament had ever raised so much, and secured it so well, as this had done." Burnet.

† "Daniel, the son of Heneage Finch, earl of Nottingham, was born in 1647, and succeeded his father in his honours and possessions. On the death of Charles the Second he was one of the privy-counsellors who signed the order for proclaiming the duke of York, but kept at a distance from the court that whole reign. When the convention met on king James's abdication, he was the principal manager of the debates in favour of a regent, against setting up another king: yet he observed, that if one was made, he would be more faithful to him than those who made him could be according to their own principles. When William and Mary were advanced to the throne, though he declined the office of lord chancellor, he accepted that of secretary of state, in which station he continued after the accession of queen Anne, when both Lords and Commons

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House of Peers, that he had something of great consequence to lay before them, and therefore desired, that they would appoint a day to receive it, in a full House. The Lords having named the Tuesday following, being the 14th, on which day the members, in and about town, were summoned to attend, the earl of Nottingham, in a set speech, represented to them, "That the Union of the two kingdoms of England and Scotland, was a matter of the highest importance; and a work of so much difficulty, that all the attempts that had been made towards it, in the last century, had proved ineffectual; that the parliament of Scotland, having thought fit to secure the Presbyterian church-government in that kingdom, it became the wisdom of the parliament of England, to provide betimes against the dangers, with which the church, by law established, was threatened, in case the Union was accomplished: And therefore he moved, That an Address be presented to the queen, humbly to desire her majesty, that the proceedings, both of the commissioners for the Treaty of Union, and for the parliament of Scotland, relating to that matter, should be laid before them."

He was seconded by the Earl of *Rochester*, who declared, "He was for an Union, and had been so for 20 years past; but that he had a few doubts in the matter, and therefore was for entering upon the debate of that important affair as soon as possible."

The Duke of *Buckingham** spoke to the same purpose; adding "That the Union of

voted him highly deserving the great trust her majesty reposed in him: yet he went out of office in 1704, and accepted no other till George the first came to the crown, when he was made president of the council; but in 1716 he finally retired from all business to a studious course of life, and died in 1730.

"All the Finches," says Dunton, "have been famous for their wit and learning; and this noble earl is a master of eloquence: yet his speeches in parliament were never known to falter with the secret glosses of double or reserved senses; and when his name is traduced (as has been the fate of the best favourites), his innocency bears him out with courage. He is a peer of strict and remarkable justice, an excellent paymaster, and a most accomplished gentleman." Macky represents him in his habit and manners very formal, with an exterior air of business, and application enough to make him very capable." Lord Orford's Noble Authors, Park's edition, vol. 4, p. 119.

The Earl's character is thus drawn by Swift:

"His vehement and frequent speeches against admitting the Prince of Orange to the throne, are yet to be seen; and although a numerous family gave a specious pretence to his love of power and money, for taking an employment under that monarch; yet he was allowed to have always kept a reserve of allegiance to his exiled master, of which his friends produce several instances, and some while he was secretary of state to king William. His outward regularity of life, his appearance of religion, and seeming zeal for the church, as they are an effect, so they are the excuse for that stiffness and formality with which his nature is fraught. His adust complexion disposeth him to rigour and severity, which his admirers palliate with the name of zeal. No man had ever a sincerer countenance, or more truly representing his mind and manners. He hath some knowledge in the law, very amply sufficient to defend his property at least: a facility of utterance, descended to him from his father, and improved by a few sprinklings of literature, hath brought himself, and some few admirers, into an opinion of his eloquence. He is every way inferior to his brother Guernsey, but chiefly in those talents which he most values and pretends to; over whom, nevertheless, he preserveth an ascendant. His great ambition was to be the head of those who were called the church-party; and, indeed, his grave solemn deportment and countenance, seconded by abundance of professions for their service, had given many of them an opinion of his veracity, which he interpreted as their sense of his judgment and wisdom; and this mistake lasted till the time of his defection, of which it was partly the cause: but then it plainly appeared, that he had not credit to bring over one single proselyte, to keep himself in countenance." Swift's Four last years of Queen Anne.

* "John Sheffield, son of Edmund, earl of Mulgrave, was born about 1650. Having the misfortune to lose his father before he was ten years old, and his mother soon marrying again, he was put into the hands of a tutor, with whom he was so little satisfied, that he got rid of him in a short time, and resolved to educate himself. Such a purpose, observes Dr. Johnson, formed at such an age, and successfully prosecuted, delights as it is strange, and instructs as it is real. His literary acquisitions are the more wonderful, as those years in which they are commonly made, were spent in the tumult of a military life, or the gaiety of a court. In 1665, when war was declared against the Dutch, he went on board the ship in which prince Rupert sailed; and volunteered his services a second time on a similar occasion, in 1672, when his zeal was rewarded by an appointment to the command of the best second-rate ship in the navy. He afterwards raised a regiment of foot, and commanded it as colonel. He was made a gentleman of the bedchamber, and had the promise of a garter, which he obtained in his 25th year. He afterwards made a campaign in the French service under Turenne. Being opposed by the duke of Monmouth in his pretensions to the first troop of horse-guards, he in return made Monmouth suspected by the duke of York: and when Monmouth fell into disgrace, he obtained the lieutenancy of Yorkshire and the government of Hull. Coming very young to the possession of a plentiful fortune, says Dr. Anderson, and in

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both kingdoms had been upon the anvil since the accession of king James 1, to the English throne; and as it could not be expected that so weighty a matter, which took up so much time and labour before, should now be compleated in a few days, therefore he was for taking it forthwith into consideration."

The Lord High Treasurer *Godolphin**, an-

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an age when pleasure was more in fashion than business, he prosecuted his studies amid the allurements of dissipation, and in making his way to military honours and civil employments, was never wholly negligent of literature, but at least cultivated poetry; in which he must have been early considered as skilful, if it be true, which is reported, that his recommendation advanced Dryden to the laurel. At the accession of James the second, with whom he lived in great familiarity, he was admitted into the privy-council, and made lord chamberlain. Though he was in some respects a man of honour, he was 'apt to comply with any thing that he 'thought might be acceptable.' In the Revolution he acquiesced, though he did not promote it. When the crown was settled upon William and Mary, he voted for the conjunctive sovereignty: this vote gratified king William; yet either by the king's distrust or his own discontent, he lived some years without favour. But in 1694 he was made marquis of Normanby, and soon after obtained a pension of 3,000*l*. When Anne succeeded to the throne, he was made lord privy-seal, duke of Normanby, and then of Buckinghamshire. Soon after, becoming jealous of the duke of Marlborough, he resigned the seals, and retiring from business, built that house in St. James's Park which is now the queen's, upon ground granted by the crown. On the succession of George the first he became a constant opponent of the court, and having no public employ, is supposed to have amused himself with writing his two tragedies, "Julius Cæsar," and "Marcus Brutus." He died Feb. 24, 1721, and was buried in Westminster Abbey, where a monument is placed to his memory, with an epitaph written by himself.

"His character, says Dr. Johnson, is not to be proposed as worthy of imitation. His religion he may be supposed to have learned from Hobbes, and his morality was such as naturally proceeds from loose opinions. His sentiments with respect to women he picked up in the court of Charles, and his principles concerning property were such as a gaming-table supplies. He is said, however, to have had much tenderness, and to have been very ready to apologize for his violences of passion. As a statesman, says Dr. Anderson, he is characterized by a steady attachment to Tory principles of government. As a courtier he is distinguished by personal dignity, gracefulness, and good breeding. As a poet he has been eulogized by Dryden, Garth, Prior, Addison, and Pope; but this praise has received a critical counterpoise from the pens of Dr. Johnson, Dr. Warton, and lord Orford: whence a writer in the New Biog. Dict. has taken occasion to exclaim, 'What a 'precarious and uncertain thing is literary re-'putation, and how miserably may many an 'author flatter and delude himself with dreams 'and visions of immortal fame!'" Lord Orford's Noble Authors, enlarged by Park, vol. 4, p. 92.

Macky thus drew his living character, about 1704: "The duke of Buckinghamshire is a nobleman of learning and good natural parts, but of no principles. Violent for the high church, yet seldom goes to it.- Very proud, insolent, and covetous, and takes all advantages. In paying his debts, unwilling; and is neither esteemed nor beloved: for notwithstanding his great interest at court, it is certain he hath none in either House of Parliament, or in the country. He is of a middle stature, of a brown complexion, with a sour, lofty look." Characters of the Court of Great Britain, p. 20.

* "This statesman, descended from a respectable family in Cornwall, was the third son of sir Francis Godolphin, k. b. The first situation he held was that of page to Charles 2. The utmost endeavours to learn the characters of others, and to conceal his own, gained him a reputation which his future conduct shows he deserved. His negociation in Holland prepared the way for the treaty of Nimeguen. Charles esteemed him as his most faithful minister. Though lord chamberlain to Mary de Modena, consort of James 2, he never approved the violence of that monarch, but as duty demanded, he waited upon the prince of Orange to ask what was his object: what his demands were. When lord Clarendon loaded James with abuse, Godolphin and the marquis of Halifax conducted themselves with equal propriety. After the Revolution was effected, he submitted to the new order of things. William 3 admired his abilities, incorruptibility, and taciturnity; retained him in the treasury, and honoured him, by making him a lord-justice, during his absence from the kingdom; and under queen Anne he was lord high treasurer. The fall of Mr. Harley, which he wished, deprived him of this post; he died soon after, in the house of the duke of Marlborough, at St. Alban's, Sept. 15, 1712, and was buried in Westminster Abbey. Though a member of the treasury thirty years, and nine of them at the head of it, yet he died worth only 4,000*l*. per annum; he even kept his servants from peculations—to him we are indebted for the present low interest of money. In four reigns he was a favourite with the sovereigns, yet never, in one instance, sacrificed the interest of the people. Queen Anne, it is well known, had loved him when young, but state necessity prevented her union with a subject. His understanding was strong and clear; he despised vanity: it was with difficulty he could be prevailed upon to accept the titles of earl of Godolphin, and viscount Rialton; he absolutely declined being elected a knight of the garter. Flattery was

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swered, "That this affair was not yet ripe for them to debate, and that they need not doubt, but that her majesty would communicate to the parliament of England, all the proceedings about the Union, as soon as that of Scotland should have gone through with it."

The lords Wharton, Somers, and Halifax, spoke on the same side, and urged, "That it was an honour to this nation, that the Treaty of Union should first come ratified from the parliament of Scotland: and that then, and not before, was the proper time to take the same into consideration."

The Motion dropped.] Feb. 3. Upon which, the other party finding they were too weak to carry the question, the earl of Nottingham's motion was dropped.

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odious to him. He seldom promised, but often gave without application. Retired and silent, admittance was denied to all. His foible was a most immoderate love for gaming; he pleaded in excuse his dislike to conversation. Godolphin was short and thin; of complexion swarthy; and of countenance stern, even to severity." Noble's Continuation of Granger, vol. 6, p. 18.

Swift's Character of the Earl is as follows:

"It is said, he was originally intended for a trade, before his friends preferred him to be a page at court, which some have very unjustly objected as a reproach. He hath risen gradually in four reigns, and was more constant to his second master king James, than some others who had received much greater obligations; for he attended the abdicated king to the sea-side, and kept constant correspondence with him till the day of his death. He always professed a sort of passion for the queen at St. Germain's; and his letters were to her in the style of what the French call *double-entendre*. In a mixture of love and respect, he used frequently to send her from hence little presents of those things which are agreeable to ladies, for which he always asked king William's leave, as if without her privity; because if she had known that circumstance, it was to be supposed she would not accept them. Physiognomists would hardly discover, by consulting the aspect of this lord, that his predominant passions were love and play; that he could sometimes scratch out a song in praise of his mistress with a pencil and card; or that he hath tears at command, like a woman, to be used either in an intrigue of gallantry, or politics. His alliance with the Marlborough family, and his passion for the dutchess, were the cords which dragged him into a party, whose principles he naturally disliked, and whose leaders he personally hated, as they did him. He became a thorough convert, by a perfect trifle, taking fire at a nickname, (Volpone), delivered by Dr. Sacheverel, with great indiscretion from the pulpit, which he applied to himself: and this is one, among many instances given by his enemies, that magnanimity is none of his virtues." Swift's Four Last Years of Queen Anne, p. 18.

The Queen's Speech concerning the Union.] Jan. 28. By this time the act of the parliament of Scotland, for ratifying the Treaty of Union, was sent up to London. Upon which, the queen came this day to the House of Peers, and made the following Speech to both Houses:

"My Lords and Gentlemen; Having acquainted you at the opening of this session, that the Treaty for an Union between England and Scotland, which had been concluded here by the Commissioners appointed for that purpose, in pursuance of the powers given by the parliaments of both kingdoms, was then under the consideration of the parliament of Scotland, I can now, with great satisfaction, inform you, that the said Treaty has been ratified by act of parliament in Scotland, with some alterations and additions.—I have directed the Treaty agreed to by the commissioners of both kingdoms, and also the Act of Ratification from Scotland, to be laid before you, and I hope it will meet with your concurrence and approbation.

"Gentlemen of the House of Commons; It being agreed by this Treaty, that Scotland is to have an equivalent for what that kingdom is obliged to contribute towards paying the debts of England, I must recommend to you, that, in case you agree to the Treaty, you would take care to provide for the payment of the equivalent to Scotland accordingly.

"My Lords and Gentlemen; You have now an opportunity before you, of putting the last hand to a happy Union of the two kingdoms, which I hope will be a lasting blessing to the whole island, a great addition to its wealth and power, and a firm security to the protestant religion.—The advantages which will accrue to us all from an Union, are so apparent, that I will add no more, but that I shall look upon it as a particular happiness if this great work, which has been so often attempted without success, can be brought to perfection in my reign."

The Articles of the Union presented to the House of Commons.] The lord Coningsby upon the return of the Commons to their own House, by her majesty's command, presented to them the Articles of the Union*, agreed upon by the commissioners, the act of parliament passed in Scotland for the ratification of them, and a copy of the Minute book, of the Proceedings of the said Commissioners, which were ordered to be printed; and upon a motion being made, and the question being put, That an Address should be presented to the queen, to order the Minutes of the former Commissioners proceeding in the first year of her reign, about an Union, to be laid before the House, it passed in the negative; and they afterwards resolved on an Address of thanks to her majesty for her Speech, and for communicating the Articles of the Union, and the Scottish Ratification of them; To which the queen made answer, "She was well pleased, what she had done was so much to the satisfaction of that House."

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* See Appendix, No. II.

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An Act for the Security of the Church of England.] Feb. 3. The Lords on the motion of the Archbishop of Canterbury ordered a Bill to be brought in for the Security of the Church of England; which being read a second time, this day (the queen and prince being present) a question was put, Whether it should be an Instruction, by the leave of the House, to insert in the bill, the Act made the 35 Car. 2, entitled, 'An Act for the prevent-'ing dangers which may happen from Popish 'Recusants:' which was resolved in the negative by a majority of 63 voices against 33. Then another question was put, That it be an instruction to the committee of the whole House, to whom the Bill for Security of the Church was committed, that there should be inserted in the said bill, as a fundamental condition of the intended Union with Scotland, particular and express words, declaring, perpetual and unalterable, an act of parliament made the 25 Car. 2, entitled, 'An Act for pre-'venting, &c.'

Protest thereon.] But this being resolved also in the negative, occasioned the following Protest:

"We conceive that this Act doth deserve to be particularly mentioned, and not left to double constructions; because as it was at first made to secure our church, then in danger, by the concurrence of Papists and Dissenters to destroy it; so they have found by experience, both in the reign of king Charles 2, and of king James 2, that it was the most effectual means of our preservation, by removing from their employments the greatest enemies of our church; and particularly in the reign of the late king James 2, the assuming of a dispensing power, and illegal practices, by closeting and corrupting the members of parlialiament, were chiefly levelled against the Test Act. (Signed) Northampton, Nottingham, Buckingham, Craven, Thomas Roffen. Guilford, R. Dunelm. Beaufort, Scarsdale, Jo. Ebor. R. Cestriens. Stawel, Thanet, Anglesea, Howard, Sussex, Weymouth, Granville, Guernsey, North and Grey."

After which their lordships went through the Bill.*

Debate in the House of Commons concerning the Union.] Feb. 4. The House resolved itself into a committee of the whole House, to consider of the Articles of Union, and Act of Ratification of the parliament of Scotland, and Mr. Compton being chosen chairman,

Mr. *Charles Cæsar* opened the debate, and raised, though modestly, some scruples against the Union. He was seconded by

Sir *John Packington*, who said, "That the business of the Union, that was now before them, being of the highest importance, required therefore the most deliberate consideration; that, with relation thereto, people without doors had been, for a long time, tongue-tied by a special order of council, which not reaching them within those walls, he would very freely impart his thoughts about it. That, for his part, he was absolutely against this incorporating Union, which he said, was like the marrying a woman against her consent: an Union that was carried on by corruption and bribery within doors, and by force and violence without, &c." Many of the members taking offence at these bold expressions, which so highly reflected both on her majesty's ministers, and the Scottish Commissioners and parliament; sir J. Packington said he was informed, That in Scotland they said the Union was carried by bribery and force: adding, "That the promoters thereof, in thus basely giving up their independent constitution, had actually betrayed the trust reposed in them, and therefore he would leave it to the judgment of the House to consider, whether or no men of such principles were fit to be admitted to sit amongst them? That, among the many inconveniences and irreconcilable contradictions this Union was liable to, he would only take notice of this material one, viz. That her majesty, by the Coronation Oath, was obliged to maintain the Church of England, as by law established, and bound likewise, by the said Oath, to defend the Presbyterian Kirk of Scotland, in one and the same kingdom: Now, said he, after this Union is in force, who shall administer this oath to her majesty? It is not the business of the Scots, who are uncapable of it, and no well-wishers to the Church of England: it is then only the part of the bishops to do it; and can it be supposed those reverend prelates will, or can act a thing so contrary to their own order and institution, as thus to promote the establishment of the Presbyterian church-government

* Dr. Calamy has the following observation on this Act: "The thus confirming the act of uniformity and the ecclesiastical constitution here in England, in all particulars, upon the present foot for perpetuity, was reckoned by the dissenters to make their way the clearer, since all hopes of a further reformation of the constitution (of which there is so much need) were hereby taken away. The old puritans many of them fell in with the established church, in hope of that way contributing to a farther reformation: and they, that adhere to their principles have, since the restoration, been often pressed to imitate their example, and fall in with the established church, with that view; and some worthy persons actually have done it: but the government by this settlement of all things in the church as they were to perpetuity, and embodying this settlement with the Union, and making it a fundamental part of it, has quite silenced that plea, and made it as senseless to urge it as it would be weak to regard it. So that henceforward all, that are convinced, that a farther reformation is needful, and that it is their duty in their places to pursue it, are bound in conscience to keep at a distance from that church, which (as much as in it lies) barred all avenues of farther light, and determined by a law, that it will be, as it is, for ever."

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in this United Kingdom?" He urged, "That the Church of England being established *jure divino*, and the Scots pretending that their Kirk was also *jure divino*, he could not tell, how two nations that clashed in so essential a point, could unite: and therefore he thought it proper to consult the Convocation about this critical point."

Major general *Mordant* in opposition to sir John Packington, said, "That he knew of no other *jure divino* than God Almighty's permission: In which sense it might be said that the church of England and the kirk of Scotland were both *jure divino*, because God Almighty had permitted that the first should prevail in England, and the other in Scotland, and that the member who spoke last, might, if he thought fit, consult the Convocation, for his own particular instruction; but that it would be derogatory from the rights of the Commons of England to advise on this occasion, with an inferior assembly, who had no share in the legislature."

Little was said in answer to this speech; only some members moved, "That the first Article of the Treaty, which implyed a peremptory agreement to an incorporating Union might be postponed, and that the House should proceed to the consideration of the terms of that intended Union contained in the other Articles."

The Articles of the Treaty approved of by the Commons.] Which motion being rejected by a great majority, several members of the opposite side went out of the House, and the rest read and approved, without opposition, the 1st, 2d, 3d, and 4th Articles of the Treaty, and read the 5th.

Feb. 8. The Commons, in a committee of the whole House, went through, and approved the remaining Articles of the Treaty. The only objection the other party raised on this occasion, was that they went post-haste in a business of the highest importance. To which it was answered, "that deliberation always supposes doubts and difficulties, but no material objections being offered against any of the Articles, there was no room for delays.' But some of the members still crying out 'post-haste, 'post-haste;' Sir Thomas Littleton very smartly pursued the allegory, and said, "They did not ride post haste, but a good easy trot: and, for his part, as long as the weather was fair, the roads good, and their horses in heart, he was of opinion, they ought to jog on, and not take up till it was night."

Feb. 8. The Commons received the report of their grand committee, with their resolutions, containing their approbation of the Articles of the Union, as amended and ratifyed by the parliament of Scotland, to which the House agreed, without any amendment; and ordered a Bill to be brought in to ratify the same.

Debate in the House of Lords concerning the Union.] Feb. 15th. This day, in the House of Lords, there was a grand debate about the Treaty of Union, the queen being present. Their lordships having resolved themselves into a committee of the whole House, and the Bishop of Salisbury (Dr. Burnet) being called upon to take the chair, the debate on the first Article was opened by

The Earl of *Rochester*, who acquainted the House, "That he had many things to object to several of those Articles, which, he said, it was all one to him whether their lordships would please to receive them now, or when those Articles came more properly under their consideration."

The Earl of *Anglesea* moved, "That the first Article might be postponed, it being impossible for him to give his vote to it, before he knew, and was thoroughly satisfied, wherein this Union was to consist." Several others were of that opinion, among whom the bishop of Bath and Wells spoke much to the same effect.

The Earl of *Nottingham* excepted against the name of 'Great-Britain,' alledging, it was such an innovation in the monarchy as totally subverted all the laws of England, and therefore moved, that the judges opinion might be asked about it; wherein he was seconded by several other lords: hereupon the Judges being severally asked their opinions in that respect, unanimously declared they could not conceive that it any ways altered or impaired the constitution of this realm, whose laws, they were of opinion, must remain entirely the same as well after as before the Union, except such as were altogether inconsistent with, and directly contrary thereto.

Lord *Haversham*. "My lord; What my noble lord (Rochester) has mentioned to your lordships, occasions my standing up; I find myself under the same difficulties: I have several things to say to this matter of the Union, to your lordships, and it is very indifferent to me when I offer them. I have a right of speaking my thoughts, and entering my protest too, to any thing I dislike, and I shall certainly find some time to do so, before this matter can pass into a law. I am in your lordships judgment, whether you will allow me to speak what I have to say, now.

"My lords, with what disposition I come hither, I hope, may be collected by the motion I made your lordships last year, for repealing certain clauses that were grievous to Scotland. I would do any thing that was for the benefit and good of both nations.

"These Articles come to your lordships with the greatest countenance of authority that I think it is possible any thing can come; your commissioners have agreed to them; the Scots parliament has, with some few amendments, ratified them; and the queen herself, from the throne, approves of them; and yet you must give me leave to say that authority, though it be the strongest motive to incline the will, is the weakest argument in all the world to convince the understanding. It is the argument the Church of Rome makes use of for their superstitious worship, where there are ten Ave-

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maries to one Pater-noster; just as unreasonable as if ten times the application and Address were made to a she-favourite, as to the person of a Sovereign, which is a kind of state idolatry.

"I would not, my Lords, be misunderstood, as if I were against an Union. A fœderal Union, an Union of interest, an Union in Succession is what I shall be always for; nay, were it whether a people inhabiting the same island, speaking the same language, and having the same religion, should be under one and the same form of policy and government, I cannot see how any man could be against it; but this a matter of a quite different nature; it is, whether two nations independent in their sovereignties, that have their distinct laws and interests, and, what I cannot forget, their different forms of worship, church-government and order, shall be united into one kingdom.—An Union made up, in my opinion, of so many mismatched pieces, of such jarring, incongruous ingredients, that, should it ever take effect, I fear would carry the necessary consequence of a standing power and force, to keep us from falling asunder, and breaking in pieces every moment: for, as my lord Bacon well observes, (whom I take to have been a very great man, though sometimes the courtier got the better of the philosopher) an unity, says he, that is pieced up by a direct admission of contraries in the fundamental points of it, is like the toes of Nebuchadnezzar's image, which were made of iron and clay; they may cleave together, but can never incorporate.

"Another reason why I am against an incorporating Union is for the sake of the good old English constitution justly allowed to be the most equal and best poised government in all the world, the peculiar excellency of which lies in that well proportioned distribution of powers, whereby the greatness of the monarch, and the safety of the people, are at once provided for; and it is a maxim in all policy, that the surest way to preserve any government, is by a strict adherence to its principles, so that whilst this balance of power is kept equal, the constitution is safe; but who can answer what alteration so great a weight, as sixty-one Scots members, and those too returned by a Scots privy-council, when thrown into the balance, may make?

"Besides, my lords, I must own I am apprehensive of the precedent, and know not how far it may be carried hereafter, or what alterations future parliaments may think fit to make; It is evident, by the two and twentieth Article, that above a hundred Scots peers, and as many commoners, are excluded from sitting and voting in the British parliament; who perhaps as little thought of being so a year or two ago, as any of your lordships do now; for they had as much right by inheritance, of sitting there, as any one lord in this House has of sitting here; and that right too, as well and as strongly fenced and secured to them by the fundamental laws of their kingdom, by Claim of Right, and act of parliament, which made it treason to make any alteration in the constitution of that kingdom; and yet have not they lost their privilege? And what one security has any peer of England, by the laws of this land, to his right and privilege of peerage that those lords had not? My lords the bishops have once been voted out of this House by the temporal lords already, and who knows what question may come hereafter: I will venture my life in defence of the church of England, and yet, at the same time own myself an occasional conformist. But if, my lords, the bishops, will weaken their own cause so far as to give up the two great points of episcopal ordination and confirmation, if they will approve and ratify the act for securing the presbyterian church government in Scotland, as the true protestant religion and purity of worship, they give up that which has been contended for between them and the presbyterians these thirty years; and which I will undertake to prove to my lords, the bishops, has been defended by the greatest and learnedest men in the church of England. I hope, when it is proper, my lords will please to give some light to one who desires instruction, that I may not ignorantly do any thing in this matter.

"There is another reason why I am against this Union, because I cannot think it an entire Union; the exempted Articles, I mean the twentieth Article, whereby heretable offices and superiorities are reserved; and also the one and twentieth; both which Oliver, by an act of state, was so wise as to abolish; especially their act for securing their presbyterian church government, and general assemblies, seem to me like those little clouds in a warm, calm summer's day, that are generally the seeds and attractives of approaching tempests and thunder. I the rather take notice of these, because though the Articles of Union are ratified by the Scotch parliament, yet the bulk and body of that nation seem to be against them. Have not the murmurs of the people there been so loud as to fill the whole nation? And so bold too, as to reach even to the doors of the parliament? Has not the parliament itself thought fit to suspend their beloved clause in the act of security, for arming their people during the session? Nay, has not the government, by advice of parliament, set out a proclamation, which I have here in my own hand, pardoning all slaughter, bloodshed, maiming, &c. that is committed upon any who are found in any tumults there, and discharging all prosecution for the future? I do not mention this to find fault with any thing that is done in Scotland, but only to shew to your lordships, that when such an unusual proclamation as this is set ont by advice of parliament, and cannot stay the forms of a law, when we know that, upon extraordinary occasions, if it be but to grace a compliment, a bill may be read three times in one day; sure, my lords, it shews a very great ferment that requires so very speedy an application. After all,

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has not what we desire, I mean their being upon the same foot of succession with us, been offered without this Union? In short, my lords, I think an incorporating Union one of the most dangerous experiments to both nations; in which, if we happen to be mistaken, however we may think of curing things hereafter, the error is irretrievable.

"My lords, this is the last time that I believe I shall ever trouble your lordships in an English parliament, give me leave therefore to say but one word. In king Charles the first's time, the cavaliers were the persons that ventured their lives, and lost their estates to serve him. And in king Charles the second's time they were forgot, and left starving. At the Restoration, the presbyterians were as zealous for that as any men whatever, and none were more prosecuted all his reign. Towards the latter end of that reign, the bishops threw out the bill of Exclusion, and king James put them into the Tower. At the Revolution, the Londonderry men, &c. were the persons that made the first and noblest stop to king James in Ireland; and I myself have fed some of them at my own table, when they were starving with the greatest commendations and promises in their pockets; which I have seen under king William's own hand. In the last reign, every body knows who they were that made their most constant court at St. James's, and we see in what favour they are at this present.—Now there is a great deal of zeal for this Union, I wish from my soul that the advantages may attend it, of tranquillity and security, power, peace and plenty, as is intended by it; but yet it is possible men may be mistaken, I won't say they will ever repent of it; but I will take leave to say what I have formerly said in this place, that what has been, may be."

The debate being over, the question was put, Whether the consideration of the first Article of the Treaty of Union should be postponed till all the other Articles had been examined? But the negative carried it by a majority of 72 voices against 22: and so the first six Articles were read and approved, and the consideration of the rest adjourned to the 19th, when the Lords resumed the consideration of the Treaty.

The Lord *North and Grey** observed, with relation to the ninth Article, The small and unequal proportion Scotland was to pay to the land-tax, urging, that Wales, as poor a country every whit as that, and of a much lesser extent, paid to the full as much again, and yet sent not much more than half the representatives to parliament, which were granted to Scotland, and for that reason his lordship said, he could not agree to that Article.

He was answered by Lord *Halifax*, That the number of representatives was no rule to go by, since there was the county of Cornwall of England, that paid not near so much towards the land tax as that of Gloucester, and yet sent almost five times as many members to parliament as the latter did. That it was very true the quota of Scotland was very small and unequal, in comparison to what was paid in England; but that the English commissioners could not induce the Scotch to agree to any more, upon account of several impossibilities on their side; that we could not expect to reap the like advantages of every Article of the Treaty; and that if they had the better of us in some few, we were infinitely recompensed by the many advantages which did accrue to us from the whole.

The House divided again on this Article, there being 70 contented with it, against 23 not contents, and so having run over the four following ones, the consideration of the rest was further adjourned to the 21st, when (the queen being present) the debate chiefly ran on the fifteenth Article.

The Earl of *Nottingham* observed, it consisted of two parts, viz. a certain grant of money, and the application thereof, in reference to which he said, That it was highly unreasonable, that the Scots, who were by the Treaty let into all the branches of our trade, and paid so little towards the support of the government, and of a most expensive and bloody war, should moreover have an equivalent of 398,085*l.* given them for coming into that Treaty. He insisted much upon that argument, and took notice, as to the disposal of the equivalent, that that part of it which was given to the Darien company, was so ordered, as that it might be swallowed up by a few persons, without any

* "William North was born December 22, 1673, and succeeded, on the death of his father, Charles, in 1690, as sixth lord North, and second lord Grey, of Rolleston in Staffordshire; of this family he took his place in the House of Peers, in January, 1698. In the reign of queen Anne he was appointed lord lieutenant of Cambridgeshire, governor of Portsmouth, and made a member of the privy council; but his chief merit was his military conduct: and having served, with great honour, under the duke of Marlborough, he was appointed lieutenant general of the British forces; and particularly distinguished himself at Blenheim, where his right hand was shot off. In the reign of George 1 he was confined in the Tower, on suspicion of treason, with the duke of Norfolk, bishop Atterbury, and Dr. Friend. After his release he retired to Spain, and entered into the army of that country, with the same rank he had held in the British service. Lord North died at Madrid, October 31, 1734; and left no issue by his lady, Maria Margaretta, daughter of M. Ellmect, receiver-general to the States of Holland. Charles, his only brother, died unmarried, at the siege of Lisle: and the barony of Grey, of Rolleston, became extinct. That of North, of Carthlage, descended to his distant relation, Francis lord Guildford, who was afterwards created an earl by the same title." Noble's Continuation of Granger.

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particular regard to the indemnifying every private sufferer in that unhappy enterprize.

The Lord *Halifax* answered, That this Equivalent could not be looked upon as a gift, but as an actual purchase of the Scots revenue and customs, which by this Union, were to be applied to the payment of the debts of England; and that they were no more gainers by it, than we were here by the sale of annuities at 15 or 16 years purchase: That as to the disposal of the money, it being their own, it was but reasonable that they should have the liberty of applying the same, as they thought most convenient, the English commissioners being no ways concerned therein; whose care, nevertheless, and great prudence had been such, that they made provision that it should not be disposed but by certain commissioners who should be accountable for the same to the parliament of Great Britain.

Their Lordships this day proceeding as far as the 19th Article, adjourned to the 24th, when (the Queen being still present,)

The Earl of *Thanet*, on the 20th Article, acquainted their Lordships, That himself having an heretable office here in England, by being perpetual sheriff of the county of Westmorland, he would be glad, with their Lordships leave, to have the opinion of the Judges, about the preservation of that his right, there being no provision made in this article for heretable offices in England.

The *Lord Chamberlain* (Marquis of Lindsey) seconded him in that motion, saying, He had the honour likewise of having such an heretable office, as was then in question, about the preservation whereof he had the very same doubts and scruples with the noble peer that spoke last: whereupon it was agreed, that the Judges should deliver their opinion about it, which they accordingly did, from the puisne Judge, to the Lord Chief Justice; whose answers were near the same, with what they had declared to the House, to be their opinion, with respect to the first Article.

The Earl of *Rochester*, after reading the 22d Article, declared, He looked upon it as incongruous, contradictory to, and inconsistent with itself; that there were 16 Peers to be returned to the House of Lords in the Parliament of Great Britain, who were peers and no peers: that being all peers by right of inheritance, they were nevertheless made here elective, he took to be divesting them of their Peerage: because not being always elected to every parliament of Great Britain, they consequently must lose, when left out, the benefit of sitting in parliament, what was ever deemed an inseparable right of the Peerage: that the rest of the nobility of Scotland, to the number of above 100, were thereby manifestly injured; and that, for his part, he wondered very much, how the Scots came to accept of such unreasonable conditions; or how their lordships could entertain the thoughts of permitting such peers by election to sit among them.

The Lords Nottingham, North and Grey, &c. very much enforced this topic, adding, That as one might very well suppose that those Scots Peers would be such as were addicted kirk, it might prove of a dangerous consequence to the church of England.

The Earl of *Wharton* replied, That though they were all never so much of the kirk party, yet there was no reason to fear, but they would also be very well disposed for the church of England, and stand up in its defence on all occasions; since there were even some sitting among their lordships who would venture their lives for the church of England, and yet openly declared themselves to be at the same time occasional conformists.

The Lord *Haversham*, rightly judging he was hinted at by that noble peer, stood up to inform the House, what he understood by an occasional conformist; (in which explanation he appeared somewhat gravelled:) for after having made a long encomium on the episcopal order, which he took to be the best and most conformable to primitive Christianity, he gave no less commendation to all the Protestant Churches abroad, and to the kirk of Scotland itself, in particular; which he said, was a true Protestant Church.

The Bishop of *Bath and Wells*, after begging pardon for troubling their Lordships on this account, and saying that if he spoke any thing out of the way, he was under their correction: declared, That, for his part, he was altogether against the Union, which he could wish with all his heart had been compleated an hundred years ago; because, said he, all the ferment and discord which were likely to ensue upon it, would by this time have had their course: that he could no better compare it, than to the mixing together strong liquors, of a contrary nature, in one and the same vessel, which would go nigh to be burst asunder by their furious fermentation: That as their bench was always reckoned the dead weight of the House, so those sixteen Peers being admitted to sit therein, would more effectually make it so, especially in any future debates relating to the church, towards which they could no ways be supposed to be well affected; and therefore he was humbly of opinion, that some provision might be made for debarring them of their vote in any church matter that should hereafter come in agitation.

The Lords Somers, Halifax, and others, made very pertinent Answers to those objections, after which the debate ended in a general division of the House, there being 71 contents for the 22nd Article, against 22 not contents.

After reading the last Article,

The Earl of *Arran* moved that the Judges Opinion might be asked, what laws would be repealed by this Union, and what would remain in force, but that motion was rejected: Upon which

The Earl of *Nottingham* stood up and begged their lordships pardon for having troubled them almost to every Article, urging there

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were such material objections occurring to his thoughts, as in conscience he thought himself obliged to lay before the House: that as sir John Maynard, made this compliment to the late king at the Revolution, that having buried, upon account of his great age, all his contemporaries in Westminster-Hall, he was afraid, if his majesty had not come in that very juncture of time, he might have likewise outlived the very laws themselves; so, if this Union did pass, as he had no reason to doubt but it would most certainly, he might with as much reason, and as justly affirm, he had outlived all the laws and the very constitution of England; concluding with a Prayer to God, to avert the dire effects which might probably ensue from such an incorporating Union.

The Treaty of Union approved by the Lords.] Three days after, the bishop of Salisbury reported to the House of Lords the Resolutions of their grand Committee, for approving the Articles of Union, which were agreed to by a great majority; but several peers made and entered the following Protest.

Protest thereon.] "Dissentient. We dissent to every one of the 25 Resolutions. Granville, Haversham, Stawell.

"I dissent to the 4 last Resolutions, having not been present at the passing the others. Geo. Bath and Well.

"I dissent to every one of the 25 Resolutions except the second. Beaufort.

"I dissent to the 1st, 4th, 5th, 6th, 9th, 15th, 18th, 19th, 21st, 22d, and 25th, Resolutions. Abingdon.

"Dissentient. To the Ninth Resolution.

"Because we humbly conceive the sum of 48,000*l.* to be charged on the kingdom of Scotland, as the quota of Scotland, for a land-Tax, is not proportionable to the 4*s.* aid, granted by the parliament of England; but if, by reason of the present circumstances of the kingdom, it might have been thought it was not able to bear a greater proportion at this time, yet we cannot but think it unequal to this kingdom, that it should be agreed, that whenever, the 4*s.* aid shall be enacted by the parliament of Great-Britain, to be raised on land in England, that 48, 000*l.* now raised on Scotland shall never be increased in time to come, though the trade of that kingdom should be extremely improved, and consequently the value of their land proportionably raised, which in all probability it must do, when this Union shall have taken effect. North and Grey, Rochester, Howard, Leigh, Guilford.

"Dissentient. To the 15th Resolution.

"Because we humbly conceive nothing could have been more equal on this head of the Treaty, than that neither of the kingdoms should have been burdened with the debts of the other, contracted before the Union; and if that proposal which we find once made in the Minutes of the Treaty, had taken place, there would have been an occasion to have employed the revenues of the kingdom of Scotland towards the payment of the debts of England, those revenues might have been strictly appropriated to the debts of the kingdom, and to any other uses within themselves as should have been judged requisite, and there would have been no need of an equivalent of very near 400,000*l.* to be raised on England, within this year, for the purchase of those revenues in Scotland, which however it may prove to be but a reasonable bargain, upon a strict calculation, there does not seem to have been a necessity just now to have raised so great a sum when this kingdom is already burdened with so vast ones, for necessary charges of the war. Rochester, North and Grey, Guilford, Leigh.

"Dissentient. To the 22d Resolution.

"Because we humbly conceive, in the first place, that the number of sixteen peers of Scotland, is too great a proportion to be added to the peers of England, who very rarely consist in more than an hundred attending Lords, in any one session of parliament, and for that reason we humbly apprehend, such a number as sixteen may have a very great sway in the Resolutions of this House, of which the consequence cannot now be foreseen.—In the second place, we conceive the Lords of Scotland, who by virtue of this Treaty are to sit in this House, being not qualified as the peers of England are, must suffer a diminution of their dignity to sit here on so different foundations; their right of sitting here, depending entirely on an election, and that from time to time during the continuance of one parliament only; and at the same time, we are humbly of opinion, that the peers of England who sit here by creation from the crown, and have a right of so doing in themselves or their heirs, by that creation for ever, may find it an alteration in their constitution, to have Lords added to their number, to sit and vote in all matters brought before a parliament, who have not the same (Right) of their seats in parliament, as the peers of England have. Buckingham, North and Grey, Leigh, Rochester, Guilford.

"We dissent to the Resolution of passing the last Article, because there being no enumeration of what laws are to be repealed, it is conceived too great a latitude of construction thereupon is left to the Judges. Rochester, Leigh, North and Grey, Guilford."

A Rider offered to the Bill of Union.] March 1. The Commons sent up a bill for uniting the two kingdoms, by Mr. Compton, to the House of Lords, who gave it a quick dispatch; but, upon reading it the third time, the lord North and Grey offered the following Rider to be added to it, viz. "Provided always that nothing in this ratification contained, shall be construed to extend to an approbation or acknowledgment of the truth of the Presbyterian way of worship, or allowing the religion of the Church of Scotland, to be what it is stiled, the true protestant religion."

Protest thereon.] But, after a debate, the question being put, Whether the said Rider should be read a second time? It was carried in the Negative, by a majority of 55 against 19.

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" Dissentient. Beaufort, Buckingham, North and Grey, Anglesea, Winchelsea, Northampton, Abingdon, Nottingham, Scarsdale, Geo. Bath and Wells, Thanet, Granville, Stawell, Guernsey, Weymouth, Guilford, Leigh."

Protest against the Ratification of the Union.] Then the question was put, Whether this Bill should pass? Which was resolved in the affirmative, by a great majority. The peers who entered their dissent were these that follow:

" Dissentient. Nottingham, Anglesea, Thanet, Winchelsea, Northampton, Scarsdale, Weymouth, Guernsey.

" Because the constitution of this kingdom has been so very excellent, and therefore justly applauded by all our neighbours for so many ages, that we cannot conceive it prudent to change it, and to venture at all those alterations made by this Bill, some of them, especially, being of such a nature, that, as the inconveniences and danger of them (in our humble opinion) is already but too obvious, some think it more proper and decent to avoid entering further into the particular apprehension we have from the passing of this law. (Signed.) Beaufort, Buckingham, Stawell, Guilford, Granville."

The Bishop of Oxford's Speech in favour of the Union *.] During the debates on the Union, The Bishop of *Oxford* (Dr. Talbot †) made the following speech:

" I do the more easily presume upon pardon from my lords, for my taking up their time in a debate of this consequence, because I have not often stood in need of it, by offending in this kind; and because I think I am now necessarily called up by the noble lord that spoke last but one. It is indeed no new favour that lord has bestowed upon this bench. I have too often had occasion to observe, with a great deal of concern as if we sat here on no other terms than the judges do, to be called up at pleasure, and many times with questions that carry (to say no worse) very unkind insinuations or suspicions.

" I need not go back for instances further than the time of this bill's coming into the House. One noble lord, in the debate on our bill of security, was pleased to direct himself to us in words to this purpose: ' If those reverend ' prelates do not believe the religion of the ' church of England to be the purest and most ' agreeable to the scriptures, and her constitu- ' tion and government most conformable to the ' primitive church: If they that instructed me ' in my religion have taught me wrong, if they ' have changed their opinion, let them tell me ' so, let them undeceive me.' And that noble lord, in a speech, with which the world has since been obliged in print, was pleased to express himself thus: ' If my lords the bishops ' will weaken their own cause, will give up the ' two great points of episcopal ordination and ' confirmation; if they will approve and ratify ' the act for securing the Presbyterian church- ' government in Scotland, as the true protestant ' religion and purity of worship.' And the noble lord that called me up asserted, ' That ' there could not be two true religions; if that ' of Scotland be true, ours cannot be so;' and desired, for the sake of the bishops, that part of the Scotch act might be distinctly read, wherein they call their presbyterian religion the true religion and purity of worship; or if we believe ours to be the true religion, can we assent to such a proposition?

" Now, my lords, surely any indifferent persons may judge, that these *ifs* do carry pretty severe implications with them, as if we of this bench had not that real love for episcopacy we ought to have, as if we were more tenderly inclined to those churches, that have not episcopal ordination and confirmation, than we should be, as if supposing we had a due opinion of the constitution of the church we should contradict it, by giving our consent to this bill; nay as if we were regardless of the danger episcopacy might be exposed to by passing this act; for as one of my noble lords says, the bishops have been once voted out of this House by the temporal lords, and who knows what question may come hereafter.

" I shall beg leave to resume my complaint by and by, and shall first answer directly to the several heads of this charge. As for episcopacy, there is no man breathing has a greater esteem, or a juster value for that primitive form of church government than I have. I shall express my notion of it, not in the words of any bishop or particular doctor, but of the church herself, in her preface to the office of ordination, which is made the law of the land by the act of Uniformity. Her words are, and such is my opinion, ' That it is evident to any man ' diligently reading the holy scriptures and an- ' cient authors, That there have been in the ' church, from the apostles times, the three or- ' ders of bishops, priests and deacons.' As to those reformed churches which have not episcopacy, I must distinguish between them that want it necessarily, and those that are without it upon choice. As to the former, my opinion is, that it is uncharitable to condemn them, as if they wanted lawful pastors, or had not the sacraments rightly administered. And this opinion I shall back with a very good authority, that of the university of Oxford, who, in a letter lately wrote in answer to one received from Geneva, have these words; ' Longe est a cha- ' ritate nostrâ ecclesias illas reformatus, quæ ' necessitatis lege a primæva episcopalis regi-

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* Printed for A. Baldwin in Warwick lane, A. D. 1710.

† " Dr. William Talbot, a native of Litchfield, was educated at Oriel College Oxford, where he entered 1674. The interest of his relation the earl of Shrewsbury opened for him the door of preferment, and he became dean of Worcester 1691, bishop of Oxford 1699, of Sarum 1715, and six years after was translated to Durham. He died in 1730: He wrote sermons which have been published in one volume 8vo." Lempriere.

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'minis formâ necesserunt, tanquam legitimis 'pastoribus aut sacramentis destitutas, rigidâ 'nimis censurâ damnare."

"As to those of the Scotch Kirk, they cannot come under this favourable opinion; for they cannot be said to be without episcopal government by necessity, but upon choice; and I shall not fear to speak my judgment very freely of them, which is, That I take them to be guilty of a wilful and most unjustifiable deviation from the pattern of the apostolic and primitive church; and yet, notwithstanding my opinion of episcopacy and the Scotch presbytery, I do not apprehend that I shall in the least contradict it, or be inconsistent with myself in voting for this bill. It is true, the Scotch in the bill for the security of the kirk, which is to be an essential condition of any Union betwixt the two kingdoms, have called their presbyterian religion the true protestant religion. But do I acknowledge their religion to be such by consenting to this bill? What is it that I or any lord should consent to, by saying Content when the question for this bill shall be put? Why that the bill shall pass into a law. And what passes into a law but what the bill enacts? Does the bill enact that their religion is the true protestant religion? No such thing. They have used that epithet; but can my consenting to what is enacted in the bill include my assent to every proposition that may be found, by putting a copula between a subject, and an epithet that may have been unduly applied to it in the preamble? I would suppose we were treating upon articles with the French king; those that should act for him would be sure to give him the stile of the Most Christian king; but would it follow, that if we were to ratify the Treaty agreed on, in some part whereof he was to be so stiled, that we consented to this proposition, that Lewis 14, is Most Christian? Or were we upon a treaty with some part of Spain or Italy, where the Inquisition prevails, and something were to be stipulated on account of that office, they would surely use the stile of the Most Holy Inquisition; but would it follow from our confirming a treaty, in some part of which they used that epithet Most Holy, that we assented that the inquisition was Most Holy? No more can be supposed to be consented to in those cases, than that that king who stiles himself Most Christian and that inquisition that calls itself Most Holy, shall have the benefit of the articles agreed upon in those treaties. In like manner, by consenting to this act, I only agree that there shall be an Union between the two kingdoms on the terms agreed on; and that notwithstanding this Union in other points, they of Scotland shall enjoy the religion established there, which they call the true one, and we shall enjoy the religion here, which we call and know to be the true one. But I do no more assent, by consenting to this bill, that their religion is the true one, than they do acknowledge ours to be the true one; which surely they are far enough from owning.

"As little am I apprehensive, that this Union may endanger episcopacy, and the religion established in our church. Indeed if I were, notwithstanding that I can foresee many great and glorious advantages that this Union will bring to both kingdoms: yet were there ten times more and greater, that single danger should turn the scale with me, and make me give my negative to the bill. I cannot but take notice, that this proposition of the Union is an unhappy one in this respect; the greatest bigots of the Scotch kirk were fearful it would ruin that, and some of the most zealous of our church, particularly my noble lord that will venture his life for her, are under great apprehensions that will destroy our church.

"My lords, if notwithstanding the two acts passed for the security of the religions respectively professed in the two kingdoms, both must not subsist after the Union, but one must swallow up the other; I cannot for my life imagine, but it is far more likely that England may at some time or other restore episcopacy to Scotland, than that ever Scotland should be capable to introduce presbytery into England. To omit other advantages that England may have over Scotland as to this, let us reflect only on the superiority of numbers that England will have over Scotland in the British parliament: 513 to 45 in the other House, and about 140 to 16 in this. But it is said, We may not all be of one mind, we may not all be cordial for episcopacy: And are we sure that the Scotch members will be all of one mind, all zealous for presbytery? I am sure we have been told over and over, when presbytery was established in Scotland, that it was a most unpolitic as well as wicked thing, for that the best part of the nobility and gentry of that kingdom were against the tyranny of the presbyterian government, and were for the episcopal. Now if this be true, if they that are to come into this House must be of the nobility, and those that come into the other House probably of the best gentry, we shall have an accession of strength to the cause of episcopacy. But I will suppose the Scotch members to be rank zealots for presbytery; yet what can 16 of them do in this House; wherein, since a noble lord has declared himself so plainly and warmly, I will venture to pronounce we are all to a man for episcopacy, even all we of this bench.

"And now, my lords, while I am up, let me beg your leave while I a little complain of, or at least lament, that unkind treatment we meet with. I have observed to your lordships, how we have been called up, and with hard insinuations of suspicious, as if we were not heartily inclined to the constitution of the church. And truly if such jealousies can be entertained and expressed of us within, we ought not to wonder at the usage we have without doors: That we are traduced as men governed by no better principles than those of interest and present views; as no true friends to the interest of our church, but distinguished enemies, ready upon occasion to betray her.

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However senseless and contradictory these reflections are, there are those that are wicked enough to spread them abroad, and those that are credulous and silly enough to receive them.

"As for myself, it is a little thing to say that the religion of the church of England is that I received from my ancestors, in which I have been born and bred, though I am sure that is more than several can say, that are now very zealous for it: but it is that which I have embraced upon judgment and choice; and ever since I have been able to form an opinion of this kind, it has been my opinion, That the religion professed in this church is the purest and most agreeable to that introduced by our blessed Saviour, and her discipline, government, and worship most conformable to the pattern of the primitive church, of any that is now upon the face of the earth. And I do defy any man to prove, that I have any where in my practice, human frailties excepted, deviated from this opinion, since I have been admitted to minister in holy things, either as a private presbyter, in a country-parish, as a a dean of a cathedral, or since I have been advanced to that higher post I now unworthily enjoy. But did these reproaches terminate in me, and go no further, they would not be worth any one's resentment, or my complaint; I hope I could bear them with patience and silence too, having learned to go through good report and evil report. But when they reach to the bench in general, or to the far greater part of it, it would be criminal to be silent.

"Of what fatal consequence must it be to the church of England, to have the clergy and people of it possessed with an opinion, that the bishops, the governors of it, do not approve of, are not friends to its constitution? My lords, if I am a fool in glorying, I am compelled to it; but in what I am now going to say, I desire to be understood as excluding myself, and then I will venture to affirm, That since the first establishment of this church, this bench was never filled with men of more venerable or deeper judgments, greater learning, more orthodox principles, or more exemplary lives: Men that have been more laborious and diligent in preaching the word, visiting their dioceses, administering the rite of confirmation, more prudent and cautious in admitting persons into orders, or instituting them into livings: men that have more faithfully discharged all the duties required in a good bishop by St. Paul, in his epistles to Timothy or Titus, or by the constitutions of our church; men that have with greater strength of reason, greater learning, or greater success, vindicated her doctrine, worship, discipline and government, against all opposers whatsoever; men that have more faithfully exposed themselves in trying times, or would be more ready, if occasion should again happen, to hazard their dearest interests in her service and defence; than the present set of bishops, who are treated as the off-scouring of the world without doors, and hardly with that decency they should be entitled to within. Our predecessors have been treated with another sort of respect; but I am at a loss to find such a difference betwixt them and their successors, as can justly so different a treatment.

"My lords, give me leave to speak very plainly: If our faults be, and so I shall take them to be, till some others are proved against us, That we were zealous for the service of our great deliverer, his late majesty of glorious memory; That we were unshaken in our adherence to his government; If our fault be, That we are as zealous and unshaken in our adherence to the present government so gloriously administered in the hands of her present majesty (whom God long preserve) to her interest and service; If our fault be, That we have been zealous for the Protestant succession established by law: if it be that we have been jealous of any offers that have been made, which to us seemed to have a tendency to the prejudice or weakening any of these, and have opposed any steps which we apprehended might facilitate the bringing in a young prince from abroad: If these be our faults, from such as take them to be faults we can never hope for pardon; for they are such as we never will repent of. But if I am sure they will not be adjudged by your lordships to be faults, till some other are proved against us, I hope and beg that we may be allowed the common privilege of the House, to differ from any Lords when we cannot bring our opinions up to theirs, and to vote according to our judgments and consciences, without being exposed to unkind reflections for so doing; to speak when we think it reasonable, and be silent when we judge it convenient so to be, without being called up at the pleasure of any Lord that shall have a mind to be angry with us."

The Queen's Speech on Passing the ACT OF UNION.] March 6. The Queen came to the House of Lords to pass the Union-Bill, and made the following Speech to both Houses:

"My Lords and Gentlemen; It is with the greatest satisfaction, that I have given my assent to a bill for uniting England and Scotland into one kingdom.—I consider this Union as a matter of the greatest importance to the wealth, strength, and safety of the whole island; and at the same time, as a work of so much difficulty and nicety in its own nature, that till now all attempts, which have been made towards it, in the course of above a hundred years, have proved ineffectual; and therefore I make no doubt, but it will be remembered and spoke of hereafter, to the honour of those, who have been instrumental in bringing it to such a happy conclusion.—I desire and expect from all my subjects of both nations, that from henceforth they act with all possible respect and kindness to one another, that so it may appear to all the world, they have hearts disposed to become one people.—This will be a great pleasure to me, and will make us all quickly sensible of the good effects of this Union.—And I cannot but look upon it as a peculiar

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happiness, that in my reign so full provision is made for the peace and quiet of my people, and for the security of our religion, by so firm an establishment of the Protestant Succession throughout Great-Britain.

"Gentlemen of the House of Commons; I take this occasion to remind you of making effectual provision for the payment of the equivalent to Scotland, within the time appointed by the act; and I am persuaded, you will shew as much readiness in this particular, as you have done in all the parts of this great work.

"My Lords and Gentlemen; The season of the year being now pretty far advanced, I hope you will continue the same zeal, which has appeared throughout this session, in dispatching what yet remains unfinished of the public business before you."*

Address of both Houses concerning the Union.] March 8. Both Houses agreed upon the following joint Address:

"We, your majesty's most dutiful subjects, the Lords spiritual and temporal and Commons in parliament assembled, return our most humble thanks to your majesty, for your gracious approbation of the share we had in bringing the Treaty of an Union between your two kingdoms of England and Scotland to a happy conclusion; a work, that (after so many fruitless endeavours) seems designed by providence to add new lustre to the glories of your majesty's reign. The success of your arms having secured us from all attempts from abroad; and the care your majesty has taken of the firm establishment of the Protestant Succession having given a great and lasting security to our religion, as in the Church of England by law established, we beg leave humbly to assure your majesty, that our endeavours shall never be wanting, to support your government at home; and so to establish the peace of this island, that no dispute may remain among us, but how to acknowledge, in the most dutiful manner, the auspicious conduct of so great and so renowned a queen."

The Queen's Answer.] Her majesty's Answer was as follows:

"My Lords and Gentlemen; I am glad to find your opinion so perfectly agrees with mine concerning the Union; you cannot do me more acceptable service, than by using your utmost endeavours, to improve all the good consequences of it."

Resolution in favour of the Leeward Islands.] March 18. The Commons proceeded to take into consideration the Report from the Committee to whom the petition of several proprietors of plantations in the islands of Nevis and St. Christophers in America, and other merchants trading to the same, on the behalf of themselves, and the other inhabitants and traders to the said islands, was referred, and the same being read, it was resolved, "That an humble Address be presented to her majesty, that she will be pleased to appoint such persons as her majesty shall think fit, to enquire into the true state of the losses of the people of the islands of Nevis and St. Christophers, in order to lay the same before this House the next sessions of parliament; and in the mean time, that she will be graciously pleased out of the public money granted this session of parliament, to apply what may be convenient for the better securing those islands, and supplying them with necessaries, in order to a re-settlement." The said Address being presented accordingly, her majesty was pleased to answer, "That she was very well pleased to find the House of Commons had so compassionate a sense of the losses of her subjects in Nevis and St. Christophers, as also with the concern they shewed upon this occasion for the plantations, which were so justly entitled to their care, by the large returns they made to the public; and her majesty would give the necessary orders for what the House had desired in that matter." Accordingly her majesty was afterwards pleased to appoint two gentlemen of known ability and integrity to go to the said Islands to procure an exact state of the losses of her subjects there, in order to their being put on such a footing, as might be most for the particular benefit of the inhabitants, and the general good of these kingdoms.

The Queen's Speech to both Houses.] April 8. The queen came to the House of Peers, with the usual solemnity, and gave her royal assent to the several following public bills. These things being over, the Lord-

* "When all was agreed to, in both Houses, a Bill was ordered to be brought in to enact it; which was prepared by Harcourt, with so particular a contrivance, that it cut off all debates. The preamble was a recital of the Articles, as they were passed in Scotland, together with the acts made in both parliaments, for the security of their several churches; and in conclusion, there came one enacting clause, ratifying all. This put those, upon great difficulties, who had resolved to object to several Articles, and to insist on demanding some alterations in them; for they could not come at any debate about them; they could not object to the recital, it being merely matter of fact; and they had not strength enough, to oppose the general enacting clause, nor was it easy to come at particulars, and to offer proviso's relating to them. The matter was carried on with such zeal, that it passed through the House of Commons, before those, who intended to oppose it, had recovered themselves out of the surprize, under which the form, it was drawn in, had put them. It did not stick long in the House of Lords, for all the Articles had been copiously debated there for several days, before the Bill was sent up to them: and thus this great design, so long wished and laboured for in vain, was begun, and happily ended, within the compass of nine months. The Union was to commence on the First of May, and until that time, the two kingdoms were still distinct, and their two parliaments continued still to sit." Burnet.

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Keeper, by her majesty's command, prorogued the parliament until Monday the 14th, when her majesty being come to the House of Peers, and the Commons sent for up, her majesty made the following Speech to both Houses:

"My lords and gentlemen; I was willing to give you an opportunity of coming together again, to consider if any thing can properly be done to prevent the inconveniences that may happen to our trade, by too great an interval between the rising of the parliament and the first of May; and I need not add, that whatever is to be done of that kind, will require to be dispatched in a little time."

Petition of the Merchants against the importation of Goods into Scotland.] The Commons being returned to their House, received and read a Petition of the Merchants, on behalf of themselves and many others, concerned in the importation of Wines and Brandy from Spain, Portugal, and Italy, and of other goods from Holland, &c. complaining, "That (as the petitioners were credibly informed) great quantities of French wines, brandies, silks, prunes, rosin, &c. of the growth and product of France; whale-bone, linnen, drugs, coffee, spices, &c. from Holland and from France, directly were brought, and more intended to be imported into the kingdom of Scotland, in order to be brought thence and imported into this kingdom of England, after the first day of May, to avoid the English duties, to the great detriment and loss of some, and the utter ruin of other the petitioners, who had imported, and were importing into England the like commodities from Spain, Portugal, Italy and Holland, paying the high duties upon them; which commodities had been chiefly purchased abroad with the woollen-manufactures, corn, and other products of England; and praying, that the House would prevent the importation of the said goods and merchandizes, the importation whereof, without being made subject to the English duties, would be a great damage, not only to the petitioners, but to her majesty's revenue of her customs; or otherwise to provide for the petitioners relief in the premises, as the House shall think fit."

Resolutions thereon.] The next day, the Commons, in a Committee of the whole House, came to these Resolutions, viz.

1. "That it is the opinion of this Committee, That the importation of goods and merchandizes of the growth and produce of France, and other foreign parts, into Scotland, in order to be brought from thence into England after the first of May, and with the intention to avoid the payment of the English duties, will be to the damage and ruin of the fair traders, to the prejudice of the manufactures of England, a great loss to her majesty's revenues of the customs, and a very great detriment to the public. 2. That the exporting of goods and merchandizes from England into Scotland, that are intitled to a drawback, with intention to bring the same back again into England after the first of May, is a most notorious fraud, to the damage and ruin of the fair traders, to the great loss of her majesty's revenues of the customs, and a very great detriment to the public."

These Resolutions being immediately reported and agreed to, a Bill was ordered to be brought in upon the same; which was accordingly done, and after the second reading, the said bill was ordered to be ingrossed. The bill on the 19th was passed, and sent up to the Lords for their concurrence; but it being apprehended, that this law would give offence to the Scots, and the most eminent lawyers, who were consulted about it, not agreeing in their opinions, the court thought fit to let it fall: considering, that the 1st of May was near at hand, and that the practices of the fraudulent traders, had, in some measure, been prevented, by the terror of this intended law.*

The Queen's Speech at the Prorogation.] Hereupon, the queen came to the House of Peers, on the 24th, and made the following Speech to both Houses:

"My Lords and Gentlemen; I return you my hearty thanks for the great zeal and affection which you have shewn for my service, and the public good, in the several affairs which have been before you, especially in that of the Union with Scotland, which I doubt not will prove a lasting blessing to this island.

"Gentlemen of the House of Commons; I am to thank you in particular, for the great dispatch you have made in providing the largest and most effectual supplies that have ever been given to the crown for the current service in any one session of parliament. I am very much concerned that the public occasions require the raising of such great sums from my people. I will take care they shall be applied to the uses for which they are given; and I hope, by God's blessing, we may obtain advantages from them answerable to so great an expence.

"My Lords and Gentlemen; It is proper for me, before we part, to communicate to you that I think it expedient that the Lords of parliament of England, and Commons of the present parliament of England, should be the members of the respective Houses of the first

* "There has been a great deal to do here in my absence occasioned by a sudden and unusual prorogation of the parliament upon account of a bill the Commons sent up to the Lords in relation to frauds carrying on in Scotland by importing prohibited goods, which after the Union were to be relanded in England; the Lords would not pass the bill, nor would they reject it, but hoped by a prorogation to give the Commons an opportunity to recant, and bring in another bill that might not infringe upon the Union, as they apprehended this did, but the Commons were stubborn and sent them the same bill again; that the queen was forced at last to interpose and determine the dispute by putting an end to the parliament." Robert to Horace Walpole, May 19, 1707. Coxe's Walpole, vol. 2. p. 8.

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parliament of Great Britain, for and on the part of England; and therefore I intend, within the time limited, to publish a proclamation for that purpose, pursuant to the powers given me by the acts of parliament of both kingdoms, ratifying the Treaty of Union: and after we have so fully compleated this great work, I assure myself that when you return to your several countries, you will omit no opportunity of making my subjects sensible of the security, and the other great and lasting benefits, they may reasonably expect from this happy Union.—This will conduce very much to make it prove so, and be a good preparation to the success of our next meeting, when, I hope, we shall all join our sincere and hearty endeavours to promote the welfare and prosperity of Great Britain."

After which the Lord-Keeper by her majesty's command, prorogued the Parliament until Wednesday the 30th.*

The Parliament revived by Proclamation.] The parliament being at an end, the queen, by virtue of a clause in the Act of Union, and pursuant to her promise in her speech, revived it by a proclamation of the 29th of April, and by another of June 5, declared her pleasure for holding the first parliament of Great-Britain on the 23rd of October. Upon this, many of the Scotch lords came to London, and were very well received. Montrose and Roxburgh were

* "Thus this remarkable session came to a happy conclusion, after having finished the great transaction of the Union, on which it may not be improper to make the following observations. It is certain, the design on Darien, the great charge it put Scotland to, and the total miscarriage of that project, made the trading part of that kingdom see the impossibility of undertaking any great design in trade; and this made them the more ready to concur in carrying on the Union. The wiser men of that nation had observed long, that Scotland lay at the mercy of the ministry, and that every new set of ministers made use of their power to inrich themselves and their creatures at the cost of the public; that the judges being made by them were in such a dependence, that, since there are no juries allowed in Scotland in civil matters, the whole property of the kingdom was in their hands, and by their means in the hands of the ministers. They had also observed, how ineffectual it had been to complain of them at court. It put those, who ventured on it, to a vast charge, to no other purpose but to expose them the more to the fury of the ministry. The poor noblemen and the poor boroughs made a great majority in their parliament, and were easily to be purchased by the court. They saw therefore no hopes of a remedy for such a mischief, but by an incorporating Union with England. These thoughts were much quickened, by the prospect of recovering what they had lost in that ill-concerted undertaking of Darien; and this was so universal and so operative, that the design on Darien, which the Jacobites had set on foot, and prosecuted with so much fury and with bad intentions, did now engage many to promote the Union, who, without that consideration, would have been at least, neutral, if not backward in it. The court was engaged to promote the Union, on account of the act of security passed in the year 1704, which was imputed chiefly to the lord-treasurer. Threatenings of impeaching him for advising it had often been let fall; and, upon that, his enemies had set their chief hopes of overthrowing him; for, though no proof could be brought of his counsel in it, yet it was not doubted, but that his advice had determined the queen to pass it. An impeachment was a word of an odious sound which would engage a party against him, and disorder a session of parliament; and the least ill effect it might have, would be to oblige him to withdraw from business, which was chiefly aimed at. The queen was very sensible, that his managing the great trust he was in, in the manner he did, made all the rest of her government both safe and easy to her; and therefore she spared no pains to bring this about, and it was believed she was at no small cost to compass it; for those of Scotland had learned from England to set a price upon their votes, and expected to be well paid for them. The lord treasurer likewise exerted himself in this matter with an activity and zeal that seemed not to be in his nature; and indeed, all the application with which the court pursued this affair, was necessary to master the opposition and difficulties which sprang up in the progress of it. That, which compleated all, was the low state to which the affairs of France were reduced. That kingdom could spare neither men nor money to support their party, which otherwise they would undoubtedly have done. They had, in imitation of the Exchequer-notes here in England, given out Mint-bills to a great value; some said two hundred millions of livres. These were ordered to be taken by the subjects in all payments, as money to the full value, but were not to be received in payments of the king's taxes. This put them under a great discredit, and the fund created for repaying them, not being thought a good one, they had sunk 70 per cent. This occasioned an inexpressible disorder in all payments, and in the whole commerce of France. All the methods that were proposed for raising their credit, had proved ineffectual; for they remained after all, at the discount of 58 per cent. A court in this distress, was not in a condition to spare much to support such an inconsiderable interest, as they esteemed their party in Scotland; who therefore had not the assistance which they promised themselves from thence. The conjuncture of these various incidents, which brought this great work to a happy conclusion, was so remarkable, that the laying them all in one view will, it is hoped, not to be thought an impertinent digression." Tindal.

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made dukes in Scotland; some of them were made privy counsellors in England; and a commission for a new council was sent to Scotland: there appeared soon two different parties among the Scots; some of them moved, that there should neither be a distinct government, nor a privy council continued there, but that all should be brought under one administration, as the several counties in England were; they said, the sooner all were consolidated, in all respects, into one body, the possibility of separating and disuniting them would be the sooner extinguished; this was pressed with the most earnestness by those who were weary of the present ministry, and longed to see their power at an end: but the ministry, who had a mind to keep up their authority, said, there was a necessity of preserving a shew of greatness, and a form of government in those parts, both for subduing the Jacobites, and that the nation might not be disgusted, by too sudden an alteration of outward appearances. The court resolved to maintain the ministry there, till the next session of parliament, in which new measures might be taken. Thus affairs were happily settled at home, and the first of May, when the Union took place, being appointed to be observed as a day of public and general thanksgiving for the happy conclusion of the Treaty of Union, it was celebrated with a decent solemnity. Congratulatory addresses on account of the Union were presented to the queen from all parts of the kingdom. But it was observed, that the university of Oxford were silent on this occasion, as well as the Scots, which made the addressers of Brackley in Northamptonshire suggest, "That after the little notice that had hitherto been taken of the Union by those who enjoyed the greatest share of it, at least an equivalent of the advantage, they had some thoughts of not disturbing her majesty at this time, in her great concernments for the liberties of all Europe, had they not been afraid, lest the malice of the world should have unjustly tacked them to some of her majesty's mistaken subjects, who, by their silence in not addressing, had sufficiently declared their dislike of what her majesty had owned her greatest pleasure and satisfaction."

PRINCIPAL OCCURRENCES DURING THE RECESS—*Changes and Promotions—Expectations of the ensuing Campaign not answered—Proceedings with regard to Scotland—A New Party at Court—Promotions in the Church—Four Men of War lost—Dispute concerning the Parliament—A New Parliament called.*]—"About this time," says Tindal, "there were made some changes in several public offices. The earl of Stamford, the lord Herbert of Cherburg, Robert Monkton, and John Pulteney, esquires, were made commissioners of trade and plantations, in the room of the lord viscount Weymouth, who had before resigned that post, and of William Blaithwaite, John Pollexfen, and Matthew Prior, esquires, who were laid aside, as too strongly attached to the Tory-party. At the same time, by the interest of Mr. Secretary Harley, sir Simon Harcourt was constituted Attorney General, in the room of sir Edward Northey; sir James Mountague succeeded sir Simon Harcourt in the place of Solicitor General; and the honourable Spencer Compton, who had exerted his zeal and abilities in the Treaty of Union, was made treasurer and receiver-general to prince George of Denmark, and pay-master to her majesty's pensions, in the room of Mr. Nicholas. In the beginning of May, the queen declared the lord Cowper lord high chancellor of Great Britain. In like manner, the lord Godolphin was appointed lord high treasurer of Great Britain. Prince George of Denmark took the oath in the court of Chancery, as lord high admiral of Great Britain, and by a new commission appointed sir David Mitchell, George Churchill, Mr. Robert Walpole, and sir Stafford Fairborne, to be council in the affairs of the admiralty. In January, the earl of Manchester received his instructions to go ambassador extraordinary to the republic of Venice, and, in his journey thither, he went to the courts of Vienna and Turin. But the most considerable change had been made, in December, by the promotion of the earl of Sunderland to the post of secretary of state, in the room of sir Charles Hedges: Though it was not till after much solicitation, that the queen could be prevailed with to make this alteration.

"The unparalleled successes of the allies, in the glorious and ever-memorable year 1706, and the many eminent misfortunes to the French king in one campaign, raised great expectations from the next, and made it concluded, that the time was come, in which the perfidy, tyranny, and cruelty of that king's long and bloody reign, were going to be repaid him with the same measures wherewith he had formerly treated others. But the events of the ensuing campaign produced a contrary effect, and proved very unfortunate to the allies. The offers of peace made by France, had been indeed rejected by Great Britain and Holland, but the inclination (as hath been observed) expressed by some persons to come to a treaty with the French, upon the terms offered, was thought to have raised, in the Imperial court, a strong jealousy, that the maritime powers were tampering with France, and making terms for themselves, to which the interest of Austria was to be sacrificed. And this jealousy was supposed to have put that court upon measures, that had a fatal influence on the campaign of this year, and to have occasioned the two most unfortunate events that happened during the whole war. For the conclusion of a treaty with the French, for evacuating the Milanese, without the privity of England and Holland, gave the French an opportunity of sending immediately into Spain a great body of good veteran troops, to the assistance of king Philip, whose army had by that means the superiority over the allies, and gained the battle of Almanza. And the expedition to Naples was the chief cause of the ill success of the design against Toulon.

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"During the campaign, things went in England in their ordinary channel. But the conduct, with relation to Scotland, was more unaccountable. For whereas it might have been reasonably expected, that the management of the newly-united part of this island should have been particularly taken care of, so as to give no just distaste to the Scots, nor offer an handle to those, who were still endeavouring to inflame that nation, and to increase their aversion to the Union; things were on the contrary, so ordered, as if the design had been to contrive methods to exasperate the spirits of the people there. Though the management of the Scots revenue was to fall into the lord treasurer's hands on the 1st of May, no care was taken to have all the commissions ready at the day, with new officers to serve in them; so that the whole trade of Scotland was stopped for almost two months for want of orders, to put it into the new course, in which it was to be carried on. Three months passed before the equivalent was sent to Scotland; and, when wine and other merchandize were imported into England, from thence, seizures were every where made; and this was managed with a particular affectation of roughness. All these things heightened the prejudices, with which that nation had been possessed against the Union. It was also known, that many messages passed between Scotland and France; and that there were many meetings and much consultation among the discontented party there. A great body appeared openly for the Pretender, and celebrated his birth-day very publicly, both at Edinburgh, and in other places of the kingdom; and it was openly talked, that there was now an opportunity that was not to be lost, of invading the kingdom, though with small force; and that a general concurrence from the body of that nation might be depended upon. These things were done in so public a manner, that no check being given to them, nor inquiry made after them by those who were in the government, it gave occasion to many melancholy speculations. The management from England looked like a thing concerted to heighten that distemper; and the whole conduct of the fleet afforded great cause of jealousy.

"But, to open this more clearly, it will be necessary to give an account of a new scene at court. It was observed, that Mr. Harley, who had been for some years secretary of state, had gained great credit with the queen, and began to set up for himself, and to act no more under the direction of the lord-treasurer. There was one of the bedchamber-women, Mrs. Abigail Hill, who, being nearly related to the duchess of Marlborough, had been taken care of by her, together with her whole family (for they were fallen very low) in a most particular manner. She brought her not only into that post, but had treated her with such a confidence, that it had introduced her into a high degree of favour with the queen; which, for some years, was considered as an effect of the duchess's credit with her majesty. She was also nearly related to Mr. Harley; and they two entered into a close correspondence. She learned the arts of a court, and observed the queen's temper with so much application, that she got far into her heart. She employed all her credit to establish Mr. Harley in the supreme confidence with the queen, and to alienate her affections from the duchess of Marlborough, who studied no other method of preserving her favour, than by pursuing the true interest of the queen and of the kingdom. It was said, that prince George was brought into the concert, and that he was made to apprehend, that he had too small a share in the government, and that he was shut out from it by the great power which the duke of Marlborough and the lord-treasurer had drawn into their hands; that all depended upon them; that the queen was only a cypher in the government; that she was in the duchess of Marlborough's hands, as her affairs were in the duke's. It was likewise talked among those, who made their court to the new favourites, that there was not now a Jacobite in the nation; that all were for the queen; and that, without doubt, she would reign out peaceably her whole life, but she need not concern herself for a German family. These discourses began to break out, and gave melancholy apprehensions to those to whom they were brought. This went on too long, little regarded. The duchess of Marlborough seemed secure of her interest in the queen, and shewed no jealousy of a favour, to which herself gave the first rise. This was the state of the court at the opening of the parliament.

"There were at that time three bishopricks vacant. Sir Jonathan Trelawney, considerable for his birth and interest in Cornwall, had been removed the summer before from Exeter to Winchester. The lord-treasurer had promised, that preferments should be bestowed on men well-principled with relation to the present constitution, and on men of merit. The queen, without regarding this, secretly engaged herself to Dr. Blackall for Exeter; and for Chester (being at the same time void by the death of Dr. Stratford) to sir William Dawes. These divines were in themselves men of merit, but their notions were all on the other side. They had submitted to the government; but they, at least Dr. Blackall, seemed to condemn the Revolution, and all that had been done pursuant to it. Sir William Dawes was likewise looked on as an aspiring man, who would set himself at the head of the Tory-party. This nomination therefore gave great disgust. To qualify this a little, Dr. Patrick, the pious and learned bishop of Ely, dying at this time, the queen advanced bishop More from Norwich to that see; and Dr. Trimnel, a worthy person in all respects, was named for Norwich; yet this did not quiet the uneasiness which many were under, by reason of the other nominations, which seemed to flow from the queen herself, and so discovered her inclination.

"To prevent the ill effects that this might

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have in the approaching session, some of the eminent members of the House of Commons were called to a meeting, with the dukes of Somerset and Devonshire. These lords assured them, in the queen's name, that she was very sensible of the services which the Whigs did her; and, though she had engaged herself so far with relation to those two bishopricks, that she could not recall the promises she had made, yet for the future she was resolved to give them full content.* But, while this was said to some Whigs, Mr. Harley, and his friends Mr. St. John and sir Simon Harcourt, took great pains with the leaders of the Tories, particularly sir Thomas Hanmor, Mr. Bromley, and Mr. Freeman, to engage them in the queen's interests, assuring them, that her heart was with them; that she was weary of the tyranny of the Whigs, and longed to be delivered from it. But they were not wrought upon by that management; they either mistrusted it, as done only to insnare them; or they had other views, which they did not think fit to own. This double-dealing came to be known, and gave occasion to much jealousy and distrust.

"A little before the session was opened, an eminent misfortune happened at sea. A convoy of five ships of the line (the Cumberland of eighty guns, captain Richard Edwards commodore; the Devonshire of like force; the Royal-Oak of seventy guns; and the Chester and Ruby of fifty) were sent to Lisbon, to convoy thither a fleet of about 130 sail of merchant-ships, with merchandise, provisions, stores of war, and a thousand horses bought in England for the king of Portugal. They left Plymouth on the 9th of October, being ordered to sail, as if it had been by concert, at a time when a squadron from Dunkirk had joined another from Brest, and lay in the way, waiting for them under the command of M. Forbin, and M. du Gue Trouin, and making in all 14 sail; one of 72 guns, others of 60, some of 50, and none under 40. Some advertisements were brought to the Admiralty of this conjunction, but they were not believed. When the French set upon the English ships off the Lizard, the convoy did their part very gallantly, though the enemy were almost three to one. One of the English men of war was blown up, and three of them were taken, so that only one escaped much shattered; but they had fought so long, that most of the merchant-ships had time to get away; and sailed on, not being pursued, and got safe to Lisbon. This coming almost at the same time with the loss of admiral Shovel, the session of parliament began with a melancholy face, and a dispute, upon the opening, had almost put the Houses into great disorder.

"It was generally thought, that, though this was a parliament that had now sat two years, yet it was a new parliament, by reason it had been let fall, and was revived by a proclamation, as had been said. The consequence of this was, that they, who had got places, were to be re-elected. Others maintained, that it could not be a new parliament, since it

* "The duchess of Marlborough, in the Account of her Conduct, p. 174, observes, "That notwithstanding the promotion of lord Sunderland to the post of secretary of state was carried by the Whigs, they were soon alarmed again by the queen's choice of two high-church divines to fill two vacant bishopricks. Several of the Whigs were disposed to think themselves betrayed by the ministry; whereas the truth was, that the queen's inclination to the Tories, being now soothed by the flatteries and insinuations of her private counsellors, had began to make it irksome to her to consult with her ministers upon any promotions, either in the church or the state. The first artifice of those counsellors was to instil into the queen notions of the high prerogative of acting without her ministers, and (as they expressed it) of being queen indeed. And the nomination of persons to bishopricks against the judgment and remonstrances of her ministry, being what they knew her genius would fall in with more readily than with any thing else they could propose, they began with that; and they took care, that these remonstrances should be interpreted by the world, and resented by herself, as hard usage, a denial of common civility, and even the making her no queen. Her majesty, however, to quiet the dissatisfaction of the Whigs for the late promotions, ordered her ministers to assure them, that she would prefer no more Tories, and she gave the same assurances with her own mouth in the cabinet-council. And she was suffered by her secret counsellors so far to observe this promise, as to give, about the same time, the bishoprick of Norwich to Dr. Trimnell, a particular friend of lord Sunderland's. And she also, some time after, gave the professorship of divinity at Oxford to Dr. Potter, the present archbishop of Canterbury, who had Dr. Smalridge for his competitor, recommended by the Tories. But this latter favour to the Whigs was not so easily obtained as the former. And, upon the delays that were made in bestowing it, my lord Marborough thought it proper to try what credit he had with the queen, whose glory he had carried to a height beyond that of any of her predecessors. He wrote therefore a very moving letter to her, complaining of the visible loss of his interest with her, and particularly of her so long deferring the promotion she had promised, of the person recommended by her ministry, as a faithful friend to her government, adding, that the only way to make her reign easy, was to be true to that rule, which she had professed to lay down, of preferring none of those who appeared against her service and the nation's interest, &c. He wrote at the same time to the same effect to me, and I wrote to the queen: and at length by much solicitation, this matter was obtained, and Dr. Potter fixed in the professorship."

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was not summoned by a new writ, but by virtue of a clause in an Act of parliament. Mr. Secretary Harley was for maintaining it to be an old parliament: but the duke of Marlborough, upon his coming over, prevailed to have it yielded to be a new one."

FIRST SESSION OF THE FIRST PARLIAMENT OF GREAT BRITAIN.

Meeting of the New Parliament.] October 23, 1707. This day the First Parliament of Great-Britain met at Westminster, all the forms usual in the beginning of a new parliament were observed. The queen came to the House of Peers, and, the Commons being sent for, they were directed by the Lord-Chancellor to return to their House, and chuse a Speaker, and present him that day se'nnight. They unanimously made choice of Mr. Smith, their former speaker, and then adjourned to the 30th of the same month. The Lords adjourned to the same day, after thirteen peers, of that part of Great-Britain called Scotland, had been admitted to their places, by virtue of their respective writs, each being introduced by two English peers of the same rank.

List of the House of Commons.] The following is a List of the Members of the House of Commons:

A LIST of the HOUSE OF COMMONS in the First Parliament of Great Britain, which met October 23, 1707.

Abington,
Grey Nevil.
Agmondesham,
Sir Samuel Garrard,
John Drake.
Albans, (St.)
George Churchill,
Henry Killegrew.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough, (Yorkshire)
Robert Moncton,
William Jephson.
Allerton-North,
Sir William Hustler,
Roger Gale.
Andover,
John Smith,
Francis Shepherd.
Anglesea,
Lord Bulkeley.
Apleby,
James Graham,
William Harvey.
Arundel,
James Butler,
Edmund Dummer.
Ashburton,
Richard Reynell,
Gilbert Yard.
Aylesbury,
Sir John Whitwronge,
Simon Mayne.
Banbury,
Charles North.
Barnstaple,
Nicholas Hooper,
Samuel Rolle.
Bath City,
Alexander Popham,
Samuel Trotman.
Beaumaris,
Henry Bertie.
Bedfordshire,
Sir Pincent Charnock,
Sir William Gostwick.
Bedford Town,
William Farrer,
William Hillersden.
Bedwin,
Lord Bruce,
Samuel Sambrook.
Berkshire,
Richard Nevil,
Sir John Stonehouse.
Berwick Town,
Samuel Ogle,
Jonathan Hutchinson.
Beverley,
Sir Charles Hotham,
John Meyser.
Bewdley,
Salway Winnington.
Bishop's Castle,
Henry Brett,
Henry Newport.
Bletchingly,
John Ward,
George Evelyn.
Bodmin,
Francis Roberts,
Thomas Herne.
Boralston,
Spencer Cowper,
Peter King.
Boroughbridge,
John Stapleton,
Craven Peyton.
Bossiney,
Sir Simon Harcourt,
John Manley.
Boston,
Sir Edward Irby,
Richard Wynn.
Bruckley,
Charles Egerton,
Harry Mordaunt.
Bramber,
Thomas Windsor,
William Shippen.
Brecon County,
Sir Edward Williams.
Brecon Town,
Sir John Jeffreys.
Bridgewater,
Sir Thomas Wroth,
George Balch.
Bridport,
Alexander Pitfield,
Thomas Strangeways.
Bristol,
Robert Yate,
Sir William Daines.
Bridgnorth,
William Whitmore,
Sir Humphry Briggs.
Bucks, County,
William Egerton,
Sir Richard Temple.
Buckingham Town,
Sir Edmund Denton,
Brown Willis.
Calne,
Edward Baynton,
George Ducket.
Cambridgeshire,
Sir Rushout Cullen,
John Bromley.
Cambridge Town,
Sir John Cotton,
Anthony Thompson.
Cambridge University,
Arthur Annesley,
Dixey Windsor.
Camelford,
William Pole,
Henry Pinnel.
Canterbury,
Henry Lee,
John Hardress.
Cardiffe,
Sir John Awbrey.
Cardiganshire,
John Pugh.
Cardigan Town,
Lewis Price.
Carlisle,
Thomas Stanwix,
Sir James Montagu.
Carmarthenshire,
Griffith Rice.
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
Sir John Wynn.
Carnarvon Town,
Thomas Bulkeley.
Castle Rising,
William Fielding,
Horatio Walpole.
Cheshire,
Langham Booth,
John Crew.
Chester City,
Sir Henry Bunbury,
Peter Shackerly.
Chichester,
Thomas Onslow,
Sir Thomas Littleton.
Chippenham,
Lord Mordaunt,
Sir James Long.
Chipping-Wicomb,
Charles Godfrey,
Fleetwood Dormer.
Christ's Church,
Francis Gwyn,
William Ettricke.
Cirencester,
Allen Bathurst,
Henry Ireton.
Clifton,
Nathaniel Herne,
Frederick Herne.
Clithero,
Edward Harvey,
Daniel Harvey.
Cockermouth,
James Stanhope,
Thomas Lamplugh.
Colchester,
Sir Isaac Rebow,
Sir Thomas Webster.
Corfcastle,
John Banks,
Richard Fownes.
Cornwall,
Hugh Boscawen,
Sir Richard Vivian.
Coventry,
Sir Orlando Bridgman,
Edward Hopkins.
Cricklade,
Edmund Dunch,
Samuel Barker.
Cumberland County,
Richard Musgrave,
George Fletcher.
Denbighshire,
Sir Richard Middleton.
Denbigh Town,
William Robinson.
Derbyshire,
John Curzon,
Thomas Coke.
Derby Town,
James Cavendish,
Sir Thomas Parker.
Devizes,
Sir Francis Child,
Josiah Diston.

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Devonshire,
Sir William Courtney,
Robert Rolle.
Dorsetshire,
Thomas Strangeways,
Thomas Chaffin.
Dorchester,
Nathaniel Napier,
Awnsham Churchill.
Dover,
Matthew Aylmer,
Philip Papillon.
Downton,
Sir Charles Duncomb,
John Eyre.
Droitwich,
Charles Cocks,
Edward Foley.
Durham County,
Sir Robert Eden,
John Tempest.
Durham City,
Thomas Conyers,
Sir Henry Bellasys.
Eastlow,
Sir Henry Seymour,
George Clark.
Edmund's Bury,
Sir Thomas Felton,
Auberry Porter.
Essex,
Sir Francis Masham,
Thomas Middleton.
Eversham,
John Rudge,
Hugh Parker.
Exeter,
Sir Edward Seymour,
John Snell.
Eye,
Sir Joseph Jekyll,
Spencer Compton.
Flintshire,
Sir John Conway.
Flint Town,
Sir Roger Mostyn.
Fowey,
George Granville,
John Hicks.
Gatton,
Sir George Newland,
Paul Docminique.
Germans (St.)
Henry Fleming,
Edward Elliot.
Glamorganshire,
Sir Thomas Mansel.
Gloucestershire,
Sir John Guise,
Maynard Colchester.
Gloucester City,
John Hanbury,
William Cooke.
Grampound,
Francis Scobell,
James Craggs.
Grantham,
Lord Granby,
Sir William Ellis.
Grimsby,
Arthur Moore,
William Cotesworth.
Grimstead,
John Conyers,
John Toke.
Guildford,
Denzil Onslow,
Robert Wroth.
Harwich,
Sir Thomas Daval,
John Ellis.
Haslemere,
George Woodroffe,
John Fulham.
Hastings,
William Ashburnham,
John Pulteney.
Haverford-west,
John Laugharn.
Helston,
Sidney Godolphin,
Francis Godolphin.
Herefordshire,
Lord Scudamore,
Henry Gorges.
Hereford City,
James Bridges,
Thomas Foley.
Hertford County,
Sir John Spencer,
Ralph Freeman.
Hertford Town,
Charles Cæsar,
Sir Thomas Clarke.
Heydon,
Anthony Duncomb,
William Pulteney.
Heytesbury,
Edward Ash,
William Monson.
Higham Ferrers,
Thomas Wentworth.
Hindon,
George Morley,
Reynolds Calthorp.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
Charles Eversfield,
Harry Goring.
Huntingtonshire,
John Dryden,
John Pocklington.
Huntingdon Town,
John Pedley,
Edward Montagu.
Hythe,
Sir Philip Boteler,
John Boteler.
Ilcester,
Edward Strode,
John Webb.
Ipswich,
Henry Pooley,
John Bence.
Ives, (St.)
Sir Bartho. Gracedeice,
Kellington,
Sir William Coriton,
Samuel Rolle.
Kent,
Lord Villiers,
Sir Cholmond. Dering,
Kingston,
Sir William St. Quintin,
William Maisters.
Knaesborough,
Christopher Stockdale,
Robert Byerley.
Lancashire,
Charles Stanley,
Richard Shuttleworth.
Lancaster Town,
Robert Heysham,
William Heysham.
Lanceston,
Lord Hyde,
William Carey.
Leicestershire,
John Verney,
John Wilkins.
Leicester Town,
Sir George Beaumont,
James Winstanley.
Leominster,
Lord Coningesby,
Edward Harley.
Leskard,
William Bridges,
Thomas Dodson.
Lestwithiel,
Russel Roberts,
James Kendall.
Lewes,
Thomas Pelham,
Richard Paine.
Lincolnshire,
George Whichcott,
Albemarle Bertie.
Lincoln City,
Thomas Lister,
Sir Thomas Meers.
Litchfield,
Richard Dyott,
Sir Henry Gough.
Liverpool,
William Clayton,
Thomas Johnson.
London,
Sir William Ashurst,
Sir Gilbert Heathcote,
Samuel Shepherd,
Sir Robert Clayton.
Ludlow,
Sir Thomas Powis,
Acton Baldwyn.
Luggershall,
Walter Kent,
John Webb.
Lyme-Regis,
Thomas Freke,
John Burridge.
Lymington,
Cha. Marq. Winchester,
Paul Burrard.
Lynn Regis,
Sir Charles Turner,
Robert Walpole.
Maidstone,
Sir Thomas Colepeper,
Thomas Bliss.
Malden,
William Fyche,
John Comyns.
Malmsbury,
Thomas Farrington,
Harry Mordaunt.
Malton,
Sir William Strickland,
William Palmes.
Marlborough,
Algernoon Seymour,
John Jeffreys.
Marlow,
Sir James Etheridge,
James Chace.
Mawes, (St.)
Francis Godfrey,
Sir Joseph Tredenham.
Melcomb-Regis,
Maurice Ashley,
Anthony Henley.
Merioneth,
Richard Vaughan.
Midhurst,
Robert Orme,
Laurence Alcock.
Middlesex,
Scory Barker,
Sir John Wolstonholm.
Milbourn,
Sir Thomas Medlycot,
Minehead,
Alexander Lutterel,
Sir Jacob Banks.
Michael (St).
Sir William Hodges,
Hugh Fortescue.
Monmouthshire,
John Morgan,
Sir Hopton Williams.
Monmouth Town,
Sir Thomas Powell.
Morpeth,
Sir Richard Sandford,
Edmund Maine.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
Charles Mason.
Newark,
James Saunderson,
John Digby.
Newcastle, (Staffordsh.)
Crew Offley,
John Lawton.
Newcastle (Northum.)
Sir Henry Liddel,
William Carr.
Newport, (Cornwall)
Sir Nicholas Morrice,
John Spark.
Newport, (Hants.)
Sir Tristram Dillington,
William Stevens.
Newton, (Lancash.)
Thomas Leigh,
John Ward.
Newton, (Hants.)
James Worsley,
Henry Worsley.
Norfolk County,
Roger Townshend,
Sir John Holland.
Northamptonshire,
Sir Justinian Isham,
Thomas Cartwright.
Northampton Town,
George Montagu,

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Francis Arundel.
Northumberland,
Thomas Forester,
Sir John Delaval.
Norwich,
Waller Bacon,
John Chambers.
Nottinghamshire,
Sir Thomas Willoughby,
John Thornhaugh.
Nottingham Town,
Robert Sacheverell,
John Plumtree.
Okehampton,
Thomas Northmore,
John Dibble.
Orford,
Sir Edmund Bacon,
Sir Edward Turner.
Oxfordshire,
Sir Robert Jenkinson,
Sir Edward Norris.
Oxford City,
Thomas Rowney,
Sir John Walter.
Oxford University,
Sir William Whitlock,
Will. Bromley.
Pembrokeshire,
Wiriot Owen.
Pembroke Town,
John Meyrick.
Penryn,
Samuel Trefusis,
James Vernon.
Peterborough,
Sidney Wortley,
Sir Gilbert Dolben.
Petersfield,
Norton Powlet,
Leonard Bilson.
Plymouth,
Charles Trelawney,
Sir George Byng.
Plymton,
Sir John Coxe,
Richard Edgcomb.
Pool,
Sir William Phippard,
Samuel Weston.
Pontefract,
Sir John Bland,
William Lowther.
Portsmouth,
Sir George Rook,
William Gifford.
Preston,
Francis Annesley,
Arthur Maynwaring.
Queenborough,
Sir John Jennings,
Thomas King.
Radnor County,
Thomas Harley.
Radnor Town,
Robert Harley.
Reading,
Sir Owen Buckingham,
Sir William Rich.
Retford,
Hardolph Wastneys,
Robert Molesworth.
Richmond,
Thomas York,
William Walsh.
Rippon,
John Aislaby,
John Sharp.
Rochester,
Sir Cloudesly Shovel,
Sir Staff. Fairborne.
Romney,
John Brewer,
Walter Whitfield.
Rutlandshire,
Sir Thomas Mackworth,
Richard Halford.
Rye,
Edward Southwell,
Philip Gibbons.
Ryegate,
Sir John Parsons,
James Cox.
Salop County,
Sir Robert Corbett,
Robert Lloyd.
Salop Town,
John Kynaston,
Richard Mytton.
Saltash,
James Butler,
Joseph Moyle.
Sandwich,
Sir Henry Furnese,
Josiah Burchet.
Sarum, New,
Robert Eyre,
Charles Fox.
Sarum, Old,
Robert Pitt,
Charles Mompesson.
Scarborough,
William Thompson,
Robert Squire.
Seaford,
George Naylor,
William Lowndes.
Shaftsbury,
Edward Nicholas,
Sir John Cropley.
Shoreham,
Nathaniel Gould,
John Wicker.
Somersetshire,
Nathaniel Palmer,
John Pigott.
Southampton County,
Thomas Jervoice.
Richard Chandler.
Southampton Town,
Lord Woodstock,
Adam D'Cardonnel.
Southwark,
John Chalmondeley,
Charles Cox.
Staffordshire,
Henry Paget,
Edward Biggott.
Stafford Town,
Walter Chetwynd,
Thomas Foley.
Stamford,
Charles Cecil,
Charles Bertie.
Steyning,
William Wallis,
Charles Goring.
Stockbridge,
Sir John Hawles,
Edward Laurence.
Sudbury,
Sir Harvey Elwys,
Philip Skippon.
Suffolk,
Sir Robert Davers,
Lord Dysart.
Surrey,
Sir Richard Onslow,
Sir William Scawen.
Sussex,
John Morley Trevor,
Sir George Parker.
Tamworth,
Joseph Girdler,
Thomas Guy.
Tavistock,
Henry Manaton,
John Bulteel.
Taunton,
Sir Francis Warre,
Edward Clarke.
Tewksbury,
Richard Dowdeswell,
Edmund Bray.
Thetford,
Sir Thomas Hanmer,
Sir John Woodhouse.
Thirsk,
Sir Thomas Frankland,
Sir Godfrey Copley.
Tiverton,
Thomas Bere,
Robert Burridge.
Totness,
Sir Humph. Mackworth,
Thomas Coulston.
Tregony,
John Trevanion,
Sir Philip Meadows.
Truro,
Peregrine Bertie,
Henry Vincent.
Wallingford,
William Jennings,
Clement Kent.
Warwickshire,
Andrew Archer,
Sir John Mordaunt.
Warwick Town,
Francis Grevill,
Doddington Grevill.
Wareham,
Thomas Erle,
George Pitt.
Wells,
Maurice Berkley,
Henry Portman.
Wendover,
Richard Hampden,
Sir Robert Hill.
Wenlock,
William Forrester,
George Weld.
Weobly,
Henry Cornwall,
George Birch.
Westbury,
Robert Bertie,
Henry Bertie.
Westlow,
Sir Charles Hedges,
Francis Palmes.
Westminster,
Henry Boyle,
Sir Henry Duttoncolt.
Westmoreland,
Michael Fleming,
Robert Lowther.
Weymouth,
Henry Thynn,
Charles Churchill.
Whitchurch,
John Shrimpton,
Richard Woolaston.
Winchelsea,
George Dodington,
James Hayes.
Winchester,
Lord Powlett,
George Rodney Bridges.
Windsor,
Lord Fitzharding,
Richard Topham.
Wilton,
John Gauntlett,
William Nicholas.
Wiltshire,
Sir Richard How,
Robert Hyde.
Woodstock,
Charles Bertie,
William Cadogan.
Wooton Basset,
Henry St. John,
Francis Popham.
Wygan,
Sir Roger Bradshaigh,
Emanuel Howe.
Worcestershire,
Sir John Packington,
William Bromley.
Worcester City,
Thomas Wild,
Samuel Swift.
Yarmouth (Norf.)
Benjamin England,
John Nicholson.
Yarmouth (Hants.)
Henry Holmes,
Anthony Morgan.
Yorkshire,
Lord Hartington,
Lord Fairfax.
York City,
Sir William Robinson,
Robert Benson.

Speaker to this Parliament, JOHN SMITH.

The Queen's Speech on opening the Session.] November 6. On the 30th the Queen came again to the House of Peers, and the Commons, being sent for, presented their Speaker, whose election was approved. Then the Lord Chancellor acquainted both Houses with her

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majesty's pleasure, that they should adjourn to this day; when the Queen made the following Speech to both Houses:

"My Lords and Gentlemen; It is with all humble thankfulness to Almighty God, and with entire satisfaction to myself, that I meet you here, in this first parliament of Great Britain; not doubting, but you come with hearts prepared, as mine is, to make this Union so prosperous, as may answer the well-grounded hopes of all my good subjects, and the reasonable apprehensions of our enemies.—To this end, nothing is so immediately material, as to convince, as soon as is possible, both our friends and our enemies, that the uniting of our interests has not only improved our abilities, but our resolutions also, to prosecute this just and necessary war, till we obtain a safe and honourable peace for ourselves, and for our allies.—In so great and extensive a war, as this is, many things may be usefully undertaken, which are not fit to be communicated beforehand: The attempt upon Toulon was of this nature; and, though it had not wholly its desired effect, has, nevertheless, been attended with many great and obvious advantages to the common cause in this year; and has made our way more easy, I hope, to greater in the next. —As the French have gained ground upon us in Spain, so they have been wholly driven out of Italy; by which it is become more easy for all the allies to join their assistance, next year, for enabling the king of Spain to recover his affairs in that kingdom, and to reduce the whole Spanish monarchy to his obedience.—The weakness and ill posture of affairs upon the Rhine, in the beginning of the year, has given an opportunity to the French, to make themselves stronger in all other parts; but this defect seems in a very promising way of being fully remedied, against next campaign, by the conduct and authority of the elector of Hanover, whose seasonable acceptance of that command has strengthened and obliged the whole confederacy.

"Gentlemen of the House of Commons; The just application of the supplies, given me by former parliaments, the plain necessity of continuing this war, the reasonable prospect of putting a good end to it, if we be not wanting to ourselves; and the honour of the first parliament of Great Britain, are, I make no doubt, sufficient arguments to invite you to provide the necessary supplies, which I am obliged to desire of you, for the ensuing campaign in all parts, and particularly for the timely support of the king of Spain, and the making good our treaty with Portugal; as also for strengthening the confederate army under the command of the duke of Savoy: All which services I do not doubt but you will think so necessary, that they ought not to be neglected, even though they should require an augmentation.—The sums already expended in this war, have been very great; and they are sufficient proofs how well satisfied my subjects have always been with the ends of my government; of which I am so sensible, as never to ask any supplies from them, but what are absolutely necessary for the preservation of their religion and liberty; and I look upon it as my great happiness, that I have not the least interest separate from that of all my good subjects.

"My Lords, and Gentlemen; In a work so great and new in its kind, as that of the Union, it is impossible but that some doubts and difficulties must have arisen; which, however, I hope, are so far overcome, as to have defeated the designs of those who would have made use of that handle to foment disturbances.—There are several matters expressly made liable, by the Articles of the Union, to the consideration of the parliament of Great Britain; which, together with such others as may reasonably produce those advantages, that, with due care, must certainly arise from that Treaty, I earnestly recommend to your serious consideration.—On my part, nothing shall be wanting to procure to my people, all the blessings which can follow from this happy circumstance of my reign; and, to extinguish, by all proper means, the least occasions of jealousy, that either the civil or religious rights of any part of this my United Kingdom can suffer by the consequences of this Union.—Such a suggestion shall never, in my time, have any foundation; how restless soever our enemies may be in their endeavours and artifices to disturb our peace and happiness. Those great and valuable blessings cannot but be always secure to us, if we heartily endeavour to confirm and improve our present union: I hope, therefore, you will suffer nothing to prevail with you to disunite among yourselves, or abate your zeal in opposing the common enemy."

The Commons' Address thereon.] The Commons forthwith resolved upon an Address of Thanks to her majesty, which was as follows:

"Most gracious Sovereign; We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, do, with all thankfulness and humility, acknowledge the Divine goodness, in making your majesty the glorious instrument of uniting your two kingdoms.—And we shall never be so far wanting in our duty to your majesty, and the trust reposed in us by those we represent, as not to embrace all occasions of confirming and improving the advantages of this happy Union. —As this cannot fail to strengthen your majesty's government at home, and answer the well-grounded hopes of good subjects; so your faithful Commons are resolved to exert the united strength of this island in such a manner as shall make it a terror to your enemies.—The elector of Hanover being at the head of the army on the Rhine, gives us the greatest hopes of success on that side, from his conduct and authority.—And though your majesty's great and wise designs for the advantage of this nation, and the good of the common cause, have not had all the desired effects in the last campaign, yet we beg leave to assure your majesty, that no disappointments shall discourage us from mak-

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ing our utmost efforts to enable your majesty, in conjunction with your allies, to reduce the whole Spanish monarchy to the obedience of the king of Spain, to make good the treaty with Portugal, and to strengthen the confederate army, under the command of the duke of Savoy. —Your majesty has shewn, throughout the whole course of your reign, that you have no interest separate from that of your people: who have been so sensible of the many blessings they have enjoyed under your administration, as never to be wanting on all occasions to express their gratitude to the best of queens.—And we, your united Commons of this parliament, do faithfully promise your majesty, that we will proceed upon public business with unanimity and dispatch, and give such effectual supplies as may carry on the war with vigour, and, by the blessing of God upon your majesty's arms, obtain an honourable and lasting peace."

The Queen's Answer.] To this Address her majesty answered thus:

"Gentlemen; I thank you very kindly for this Address. The desires you express, of taking all occasions to improve the advantages of our happy Union, are extremely agreeable to me. As you cannot give me a more sensible proof of your loyalty and affection to me, and my government, than by your assurances of supporting me effectually in a vigorous prosecution of the war, so I make no doubt, but that these assurances will have their due weight abroad, and be of the greatest advantage imaginable to the common cause."

Debate in the Lords on the State of the Nation and the great Decay of Trade.] It was expected, according to custom, that the Lords would have begun with an Address of Thanks to the queen; but when her majesty's speech came first to be considered, the earl of Wharton made an elaborate harangue, wherein, among other things, he took notice of the great decay of trade and scarcity of money. He was seconded by the lord Somers, who likewise enlarged upon the ill condition and late mismanagements of the Navy: So that when the earl of Stamford moved for an Address to her majesty, to return her Thanks for her most gracious speech, he was opposed by the duke of Buckingham, the earl of Rochester, and the lord Guernsey, who said, they ought, in the first place, to consider the State of the Nation: Upon which it was ordered, that the State of the Nation should be taken into consideration on Wednesday the 3d of December, in a Committee of the whole House.

Accordingly, the lord Herbert of Cherbury, being chairman, a Petition given in by the two sheriffs of London, and subscribed by above 200 of the most eminent merchants in the city, was read, complaining of the great losses they had lately sustained at sea, for want of Convoys and Cruizers, and begging a speedy remedy. After the reading of this Petition, which was presented to the committee by the earl of Wharton, his lordship began the debate, by laying open the miserable condition of the Nation, and the great Decay of Trade. Several other Peers spoke to the same effect, and among the rest,

Lord *Haversham* spoke as follows:

"My lord Herbert; I was so unfortunate as not to be in the House when your order was moved for, but thought it my duty to pay attendance upon so extraordinary occasion. I know it is generally looked upon as a mark of great weakness and imprudence, to attempt impossibilities: That man would scarce be thought in his right senses, that should endeavour to stop the tide at Gravesend with his thumb; and not rather suffer it to take its own course, as knowing that it will as surely have its ebb, as it will its flux; but yet there are some cases wherein the universal practice of mankind shews the mistake of this maxim. Who is there, that, seeing his parent languishing, and in an irrecoverable consumption, would not think it his duty to give him all the assistance in his power, though he was morally certain, all his endeavours would prove ineffectual, and the fatal hour was just approaching? Nay, does not every man endeavour to preserve his own life, while at the same time, he knows, that death itself is most unavoidable? This I take to be the present case of England (I ask your lordship's pardon, that I have not yet forgot that beloved name) I mean Britain. Our condition is very low and desperate, and yet I think myself obliged to do all I can toward the helping of a poor sinking island, though I am convinced, at the same time, it will prove very insignificant. My lords, the two things you have now under your consideration, your Fleet, and your Trade, have so near a relation, and such mutual influence upon each other, they cannot well be separated; your trade is the mother and nurse of your seamen; your seamen are the life of your fleet, and your fleet is the security and protection of your trade, and both together are the wealth, strength, security and glory of Britain. And this is so manifest, that those who have written upon these subjects, whether foreigners, or among ourselves, have owned it, which makes it astonishing, that a thing so clear and evident, and wherein our interest and safety does so much consist, should be postponed to any foreign consideration whatsoever, wherein we are less concerned: but we are so unhappy, as to struggle with so many complicated difficulties, that what is proper for one thing, is prejudicial to another. My lords; I must make the same apology for myself as that noble lord did (the earl of Wharton) who first began this debate; though I may speak very plainly, it is with a very honest intention of service, and a very real sense of our great losses and misfortunes. His lordship has spoke so very well, and so fully too to these points, that whatever I can say upon the same subject, will, after what has been said by him, come from me with a very ill grace, yet give me leave, my lords, to speak a word or two. Your disasters at sea have been so many, that a man scarce

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knows where to begin. Your ships have been taken by your enemies, as the Dutch take your herrings, by shoals, upon your own coasts: nay, your royal navy itself has not escaped: And these are pregnant misfortunes, and big with innumerable mischiefs; your merchants are beggared, your commerce is broke, your trade is gone, your people and manufactures ruined, the queen has lost her customs, and the parliament must make good the deficiencies; while in the mean time our allies have an open and flourishing trade, and our enemies make use of both our own ships and seamen too against us. There is yet a further grievance, when, through a thousand difficulties and dangers, the honest trader has brought home some small effects, he is fallen upon, and oppressed by vexatious and unjust prosecutions: I mention this with relation to the Union, and shew, that though I was always against it, yet since it is made, I am for keeping firmly and exactly to it.—My lords, the face of our affairs is visibly changed in the space of one year's time, and the temper of the nation too. Formerly men stifled their misfortunes, and were afraid of whispering them out for fear of being overheard and undone. Now, it is hard to stop their mouths, or keep them within any bounds, the moving objects of sorrow we meet with every where, the tears of the fatherless, and cries of the widows, have raised both a compassion for the distressed, and resentment, and indignation against the authors of these misfortunes; and the very flames which of late have flown abroad, nobody knows from whence, and papers have been cryed in your streets, are all marks of the great ferment the nation is in. My lord, you are now upon the great enquiry, by what ways and persons we have been brought into this miserable condition; I think it very indifferent which way you proceed. It seems reasonable that those Lords who first moved this order, should put it into what method they please; but I must take leave to say, that, begin were you will, if you do not end with the ministry, we shall be in a worse condition, in my opinion, than we were before. —As to the Admiralty, if the prince's council have committed any fault, it is very fit they should have what they deserve, but I hope no persuasion will prevail with the prince himself to lay down that commission. The navy I think is safer in his hands, than in any other man's whatsoever; and I will give your lordship my reason for it. He has advantages no other person can pretend to: He owes not his commission to the favour of any great minister whatsoever, nor is he within the reach of their power; he stands upon a much more unshaken and firm foundation; and if there be any mistake, it is impossible to be the effect either of the fear, or the anger of a great minister, or a care to please him.—My lord, I take the root of all our misfortunes to be in the ministry; and without a change of the ministry, in my opinion, no other remedy will be effectual: It may perhaps be told by some lord, that I arraign the ministry. I know that is not proper here, yet every lord has liberty of speaking his thoughts freely, and taking notice of any thing he thinks a grievance to the nation: And it is under this notion of complaint, and from a sense of our miserable condition, that I say this to your lordships; and if I were not confident I stand upon sure ground, I should not venture thus far; but I have my justification in my hand. And now, my lords, it is fit I should prove what I say.—Should I mention the first, fourth, and last Articles of the Union, I am within your order, and those lords who serve at present for the north part of Britain, I am confident, have heard of a complaint and address of the royal boroughs; and I might remember the disappointments we have met with in Spain; but I hope those two points will be some time or other considered. I will therefore keep myself for proof strictly to your petition, and I think nothing is more evident than that your ministry has been the cause of these misfortunes. And the argument which convinces me of it is drawn from an address of your lordships in 1704, which I have in my hand. I know before whom I speak, the queen is a princess of that consummate wisdom, as not to do any thing without the advice of her ministry; your lordships did then most humbly advise and address her majesty, that particular care might be taken of those two points, none but those who have her majesty's ear could prevail to the contrary, and the want of following your lordships advice has lost the nation near ten millions since; and therefore it evidently follows, that your ministry have been the occasion of these losses.—In short, my lords, for I will trouble you no farther; let our misfortunes be skinned over as they will, if they fester and throb, and are foul at bottom, they will certainly break out with incurable rage and fury."

The debate growing high, some lords endeavoured to allay it, by proposing ways and means to retrieve our losses at sea; and, among the rest, the lord Hallifax moved, That a Committee be appointed to receive proposals for encouraging of Trade and Privateers in the West-Indies; which motion being seconded by the Lord Treasurer, and the question put, the same was carried in the affirmative. After which, a day was appointed to hear, in a grand committee, what the merchants had to alledge, to prove the suggestions of their petition. It was observed, that, as soon as the debate was over, the duke of Marlborough took the earl of Wharton aside, and there passed some warm expostulations between them.

Mr. Asgill expelled.] Nov. 25. The Commons took into consideration the Report of the committee appointed to examine the Petition of Mr. John Asgill, a member of the House, in prison in the Fleet for debt, at the suit of Mr. Holland, a Staffordshire gentleman: which Report was ordered to be re-committed. On the other hand, the House being informed of a printed book or pamphlet, signed, J. Asgill, intitled,

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An argument, proving, that according to the covenant of eternal life, revealed in the Scriptures, man may be translated from hence into that eternal life, without passing through death, although the human nature of Christ himself could not be thus translated, till he had passed through death. Several passages of which treatise being contrary to and reflecting on the Christian religion, the book was brought up to the table, and the title, and several paragraphs therein, being read, it was ordered, that it be referred to a committee to inquire into the author of the said book. On the 16th of December, the Commons resolved, That Mr. Asgill ought to have the privilege of the House, as a member thereof, and be delivered out of the custody of the warden of the Fleet, to attend the service of the House. Pursuant to which resolution, he was immediately discharged; but two days after the House proceeded to take into consideration the Report from the committee, to whom it was referred to examine, who was the author, printer, and publisher of the book above mentioned, ascribed to Mr. Asgill: who having been heard in his place in relation to the Report, the Commons resolved, That in the said book are contained many profane and blasphemous expressions, highly reflecting upon the christian religion; and ordered the same to be burnt by the hands of the common hangman in the New-Palace yard, Westminster; and resolved that John Asgill, esq; having in his place owned himself to be the author of the said book, be expelled the House.

Resolutions about Members incapable to sit.] The Commons came also to this Resolution, "That every person, who, by an Act of the first session of the last parliament, entitled, "An Act for the better security of her majesty's person and government, and of the succession of the crown of England in the Protestant-line (relating to disabling of several officers to sit in parliament) was disabled, from and after the dissolution or determination of the said parliament, to sit or vote as a member of the House of Commons in any parliament to be thereafter holden, was by virtue of the said act incapable of sitting or voting as a member of that House in this present parliament."

A Supply granted.] The Commons, at the same time, went roundly to work with the Supplies, so far and as soon as the states of the Accounts of several offices and other matters could be laid before them and examined: They rejected a motion to bring in a Bill to repeal the Game-act made last year; vindicating the privileges of their own members, and having addressed the queen to order her Attorney-General to enter a Noli Prosequi, to discharge the several informations exhibited in the court of Exchequer, relating to goods imported into Scotland before the 1st of May last; her majesty answered, "She was very well pleased with what the House of Commons had done in that matter, and she would give directions accordingly, as was designed by their Address."

Naval Miscarriages examined into.] The Commons next thought fit to go upon the business of Admiral Whetstone's convoying the Russia-fleet last summer, and his cruize before Dunkirk: this, with other matters, took up a pretty deal of their time, and brought the whole concerns of the navy under consideration. Some Miscarriages*, no doubt, there were, as

* "These were no sooner over, than the complaints of the Admiralty were offered to both Houses: Great losses were made, and all was imputed to the weakness, or to a worse disposition, in some, who had great credit with the Prince, [George of Denmark Lord High Admiral] and were believed to govern that whole matter: For as they were entirely possessed of the Prince's confidence, so when the Prince's Council was divided in their opinions, the decision was left to the Prince, who understood very little of those matters, and was always determined by others. By this means they were really Lord High Admiral, without being liable to the law for errors and miscarriages. This Council was not a legal court warranted by any law though they assumed that to themselves; being councellors, they were bound to answer only for their fidelity. The complaints were feebly managed, at the bar of the House of Commons: for it was soon understood, that not only the Prince, but the queen likewise concerned herself much in this matter: And both looked on it as a design, levelled at their authority. Both Whigs and Tories seemed to be at first equally zealous in the matter; but by reason of the opposition of the court all those who intended to recommend themselves to favour, abated of their zeal: Some were vehement in their endeavours to baffle the complaints; They had great advantages from the merchants managing their complaints but poorly; some were frighted, and others were practised on, and were carried even to magnify the conduct of the fleet, and to make excuses for all the misfortunes that had happened. That which had the chief operation, on the whole Tory party, was, that it was set round among them, that the design of all these complaints was to put the earl of Orford again at the head of the fleet: Upon which they all changed their note, and they, in concurrence with those, who were in offices, or pretended to them, managed the matter so that it was let fall, very little to their honour. Unkind remarks were made on some, who had changed their conduct upon their being preferred at court; but the matter was managed with more zeal and courage in the House of Lords, both Whigs and Tories concurring in it. A Committee was appointed to examine the complaints; they called the merchants who had signed the Petition, before them; and treated them not with the scorn, that was, very indecently, offered them by some of the House of Commons, but with great patience and gentleness; they obliged them to prove all their complaints by witnesses upon oath." Burnet.

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well as misfortunes; the merchants were respectively examined touching their complaints and grievances, and the Prince's council made their replies and vindication. Mr. Heathcote, son of Sir Gilbert Heathcote, and Mr. Dawson, Russia-Merchants, spoke very boldly, and stuck not to charge the managers of the navy with fraud, malice, and ignorance, which all bore hard on Admiral Churchill. Several members interrupting them, Sir Richard Onslow, chairman of the committee, desired them to go on. Whetstone, who commanded the Russia-convoy, and rose to a flag, from being master of a small Bristol-Ship, had a character which seemed to be referred to by Mr. Heathcote and Mr. Dawson, in their complaint of fraud, malice, and ignorance. These debates and complaints ended in a Resolution, "That, for the better securing the Trade of this kingdom, over and above the ships of war for the line of battle, and the convoys to remote parts, a sufficient number of ships, afterwards settled at four, be appointed to cruize in proper stations."

Resolutions to make the Union more compleat.] The commons ordered a bill to be brought in to repeal the acts passed in Scotland, for the security of that kingdom, and about peace and war, which had given so great a jealousy to the English nation, that the rescinding of them was one of the principal views of the ministry, in the prosecution of the Treaty of Union. This done, they considered those parts of the Queen's Speech relating to the making of the Union more compleat, and resolved, on the 11th of December, "1. That there be but one privy-council in the kingdom of Great Britain. 2. That the militia of that part of Great Britain called Scotland be regulated, in the same manner as the militia of that part of Great Britain called England is regulated. 3. That the powers of justices of peace for preserving the public peace be the same throughout the whole United Kingdom. 4. That for the better administration of justice and preservation of the public peace, the lords of justiciary be appointed to go circuits twice in the year. 5. That the writs for electing members to serve in the House of Commons, for that part of Great Britain called Scotland, be directed to the sheriffs of the respective counties, and that the returns be made of such writs, in like manner as returns are made of such writs in that part of Great Britain called England."

The Queen's Speech on passing the Money Bills.] Dec. 18. The Queen came to the House of Lords, and after giving the royal assent to several Bills, made the following Speech to both Houses:

"My Lords and Gentlemen: I am very well pleased with the occasion of my coming hither at this time, and desirous to take this opportunity of expressing to you the satisfaction I have in seeing so good a progress made in the public business.

"Gentlemen of the House of Commons; I am extremely sensible of the readiness and affection with which you have provided so considerable a part of the supplies: as I am fully persuaded it must needs give the greatest satisfaction to all our allies, so I look upon it as a sure pledge of your being disposed to make good those hearty assurances which you gave me in the beginning of the session.—I told you at the opening of this parliament, that I did hope you would look upon the services relating to Spain, Portugal, and the army under the command of the duke Savoy, to be of so much importance in the prosecution of this war, that they might deserve an Augmentation, which I cannot but think will be of the greatest use to the common cause,* both with regard to those

* Mr. Addison wrote an excellent piece to this purpose, which was printed at London in 1708, under the title of "The present State of the War, and the necessity of an Augmentation considered." In this discourse, after having shewn, that the French are the constant and most dangerous enemies to the British nation, and that the danger from them was then greater than ever, and would still increase till their Union with Spain were broken, he sets forth the several advantages, which this Union had already given France, and taken from Great-Britain, in relation to the West-Indies, the woollen manufactures, the trade of the Levant, and the naval power of the two nations. He then shews how these advantages would still rise higher after a peace, notwithstanding the present conquests of Great-Britain, with new additions, should be confirmed to the nation, as well because the monarchy of Spain would not be weakened by such concessions, as because no guarantee could be found sufficient to secure them to us. For which reason he lays it down as a fixed rule, that no peace was to be made without an intire disunion of the French and Spanish monarchies. That this might be brought about, he endeavours to prove from the progress, which had been already made towards it, and the successes, which the British nation had purchased in the war, and which were very considerable, if well pursued; but of no effect, if the nation should acquiesce in them. In order to compleat this disunion, in which we had gone so far, he would not have us rely upon exhausting the French treasury, attempts upon the Spanish Indies, descents on France, but chiefly on out-numbering them in troops, France being already drained of her best supplies, and the confederates masters of much greater forces for multitude and strength, both in men and horses, and provided with generals of great fame and abilities. He then considers the wrong measures, which had been hitherto taken in making too small levies after a successful campaign, in regulating their number by that of the enemy's forces, and hiring them of our confederates; shewing at the same time the inconveniences suffered from such hired troops, and several advantages, which would arise from employing those of our own nation. He further recommends this augmen-

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particular services, and to the putting ourselves in a condition to improve such favourable opportunities as may arise in the ensuing year.

"My Lords and Gentlemen; I shall only add, that as nothing is more essential to my own quiet, and the happiness of all my good subjects, than the bringing this war to a safe and honourable conclusion, so I must think myself obliged to look upon all those who are willing and desirous to support me in it for attaining that end, as the most proper objects of my favour and encouragement.—I cannot conclude without once more recommending to you to confirm and improve the advantages of our happy Union, not doubting but at the same time you will have a due regard to what shall be found necessary for preserving the public peace throughout the whole island of Great Britain."

Debate in the Lords concerning the Earl of Peterborough and the Affairs of Spain.] Dec. 19. A long and memorable debate took place in the House of Lords, in relation to the Affairs of Spain, the Queen being present, *incognito*, till five of the clock in the afternoon.

The Earl of *Rochester* spoke first, and having commended the earl of Peterborough's courage and conduct, and enumerated his services, said, It has been a constant custom, that when a person of rank, that had been employed abroad, in so eminent a post as his lordship had, returned home, he had either thanks given him, or was called to an account: urging, that the same ought to be done in relation to the earl of Peterborough.

The Lord *Halifax* who spoke next enlarged likewise on the earl of Peterborough's successful services, but cunningly put off the returning him Thanks, till the whole tenor of his conduct had been examined: than which the earl himself professed, he had nothing more at heart.

The Lord *Haversham* was not silent: but having highly extolled my lord Peterborough's valour, skill, and successes, made a side-wind reflection on the earl Galloway, saying, it was no wonder our affairs in Spain went so ill, since the management of them had been entrusted to a foreigner.'

Hereupon, several members shewed the necessity of carrying on the war, till the whole monarchy of Spain was recovered, and king Charles seated on his throne; and among the rest,

The Earl of *Peterborough* said, 'They ought to give the queen 19 shillings in the pound, rather than make peace on any other terms, adding, That if it were thought necessary, he was ready to return to Spain, and serve, even under the earl of Galloway.

This naturally brought on the consideration of ways and means to retrieve the Affairs of Spain, in relation to which the

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tation of our forces, to prevent the keeping up a standing body of them in times of peace, to enable us to make an impression on the enemy in the present posture of the war, and to secure ourselves against the king of Sweden, who was then at the head of a powerful army, and had not yet declared himself. In the last place he answers by several considerations those two popular objections, that we furnished more towards the war than the rest of the allies; and that we were not able to contribute more than we did already. With regard to the former objection, he observes, that if it were true in fact, that England contributed more than any other of the allies, he does not see any tolerable colour, that she should not make any addition to her present efforts. Supposing, says he, "among a multitude embarked in the same vessel, there are several, that in the fury of a tempest will rather perish than work for their preservation; would it not be madness in the rest to stand idle, and rather chuse to sink together, than to do more than comes to their share? Since we are engaged in a work so absolutely necessary for our welfare, the remissness of our allies should be an argument for us to redouble our endeavours rather than slacken them. If we must govern ourselves by example, let us rather imitate the vigilance and activity of the common enemy, than the supineness and negligence of our friends. We have indeed a much greater share in the war than any other part of the confederacy. The French king makes at us directly, keeps a king by him to set over us, and hath very lately augmented the salary of his court, to let us see, how much he hath that design at heart. Few of the nations in war with him, should they ever fall into his hands, would lose their religion or form of government, or interfere at present with him in matters of commerse. The Dutch, who are likely to be the greatest losers after the Britons, have but little trade to the Levant in comparison with ours, have no considerable plantations or commerce in the West-Indies, or any woollen manufacture, for Spain; not to mention the strong barrier they have already purchased between France and their own country. But, after all, every nation in the confederacy makes the same complaint, and fancies itself the greatest sufferer by the war. Indeed in so common a pressure, let the weight be never so equally distributed, every one will be most sensible of that part, which lies on his own shoulders. We furnish, without dispute, more than any other branch of the alliance, but the question is, Whether others do not exert themselves in proportion according to their respective strength? The Emperor, the king of Prussia, the elector of Hanover, as well as the States of Holland, and the duke of Savoy, seem at least to come up to us. The greatest powers in Germany are borrowing money, where they can get it, in order to maintain their stated quota's, and go through their part of the expence: And, if any of the circles have been negligent, they have paid for it much more in their late contributions, than what would have furnished out their share in the common charges of the war."

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Earl of *Rochester* said, That we seemed to neglect the principal business, and mind only accessaries; adding, he remembered the saying of a great general, the old duke of Schomberg, viz. 'That the attacking France in the Netherlands, was like taking a bull by the horns:' and therefore his lordship proposed, That we should stand on the defensive in Flanders, and send from thence 15 or 20,000 men into Catalonia.

That noble peer was seconded by the Earl of Nottingham, who complained of Spain being in a manner abandoned. But

The Duke of *Marlborough* undertook to shew, though with some warmth, the danger of such an undigested council, and the necessity of augmenting, rather than diminishing our forces in Flanders. The two chief reasons his Grace urged were, 1st, That most of the enemies strong places there, might be kept with one battalion in each; whereas the great towns of Brabant, we had conquered, required twenty times that number of men, for their preservation. 2dly. That if our army in the Netherlands was weakened, and the French, by their great superiority, should gain any considerable advantage, which it was not improbable they might, the discontented party in Holland, who were not a few, and bore with impatience the necessary charges of the war, would not fail crying aloud for peace. Hereupon,

The Earl of *Rochester*, said, He wondered that noble peer, who had been ever conspicuous for his calmness and moderation, should now be out of his temper; adding, that there being an absolute necessity to succour Spain, his grace would oblige their lordships, if he would let them know, where they might get troops to send thither: and the more, because the earl of Peterborough had that very day assured them, that he had heard prince Eugene say, That the German soldiers had rather be decimated than sent into Spain.

The Duke of *Marlborough* answered for the cause of having shewn some warmth, by saying The thing was of too great importance to be spoken of without concernment: and as for the question proposed by the Earl, he added, that although it was improper to disclose secret projects in so great an assembly, (to which that day many strangers had been admitted, by the favour of the queen's presence) because the enemy would not fail being informed of them; yet, to gratify their lordships he might assure them, that measures had been already concerted with the emperor for the forming an army of 40,000 men, (whom he specified) under the command of the duke of Savoy, and for sending powerful succours to king Charles; adding, it was to be hoped that prince Eugene might be prevailed with to go and command in Spain, in which case the Germans would gladly follow him thither. The only difficulty which, his grace said, might be objected against this scheme, was the usual slowness of the court of Vienna; to which purpose he took notice, that if the 7000 German recruits, which the emperor had promised for the army in Piedmont, had arrived time enough, the enterprize against Toulon might have been attended with success: but that it was to be hoped, and he durst engage his word for it, that for the future his imperial majesty would punctually perform his promises.

The Lord's Address upon the Queen's Speech, thanking her Majesty for her Intentions of pursuing the War with vigour.] This put an end to the debate; and a committee was appointed to draw up an Address to the queen, which was presented the same day; and was as follows:

"We, your majesty's dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, do return our most humble thanks to your majesty for your most gracious speech to your parliament.—The great spirit and resolution your majesty is pleased to express for the vigorous carrying on the war in Spain and Portugal, and strengthening the army of the duke of Savoy, who has deserved so well of the whole confederacy, cannot fail to contribute in the most effectual manner to bring this war to a speedy and happy conclusion.—Such an example ought to excite all your allies to a noble imitation; and, we are sure your majesty will do your utmost to oblige such of them as hitherto have failed in their parts, for the future to act as those who have a real concern for restoring and securing peace and liberty to Europe. Your majesty's favour will always be the highest encouragement to your subjects; but the zeal we have for the preservation of your majesty's person and government, and the duty we owe to our country, always has and ever will oblige us to do all that lies in our power, for supporting your majesty in this just war, till it be brought to a safe and happy conclusion.—And as we have shewn the greatest zeal for bringing the Union to pass, and for preventing every thing that might disturb it; so we unanimously promise your majesty to do all that is possible for us to make it complete and entire."

The Queen's Answer.] Her majesty answered:

"I return you many thanks for your Address, and the assurances of your zeal to support me in the present war.—Nothing shall be wanting on my part, either abroad or at home, to make my people safe and happy."

Resolutions of the Lords concerning Spain.] The same day the lords resolved: 1. "That no peace can be honourable or safe, for her majesty and her allies, if Spain and the Spanish West Indies be suffered to continue in the power of the House of Bourbon. 2. That an humble Address be made to her majesty, to thank her majesty for the care she has taken, and the instances she has used with the emperor, for the sending a considerable force to the relief of the king of Spain, under the command of prince Eugene; and to desire her majesty, that she would continue to make the most pressing instances to the emperor to send powerful succours to Spain under the command of prince Eugene with expedition; and to make good the concert for

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of 20,000 men under the command of the duke of Savoy; and that the emperor use his utmost efforts for strengthening the army on the Rhine."

Address of both Houses against concluding a Peace whilst Spain, &c. continue under the House of Bourbon.] Dec. 22. Both Houses agreed upon the following Address to her majesty:

"We, your majesty's most dutiful and obedient subjects the Lords spiritual and temporal and Commons in parliament assembled having been always fully persuaded, that nothing could restore a just balance of power in Europe, but the reducing the whole Spanish monarchy to the obedience of the House of Austria; and having seen several great parts of that monarchy by the blessing of God upon the victorious arms of your majesty and your allies, already in the possession of that House; do think it not only seasonable but necessary, at this juncture humbly to offer this our unanimous opinion to your majesty. That no peace can be honourable or safe, for your majesty or your allies, if Spain, the West Indies, or any part of the Spanish monarchy be suffered to remain under the power of the House of Bourbon.

"When we consider what efforts this kingdom has continued to make from the beginning of the war; we cannot but think a much greater impression might have been made upon the enemy before this time, if some of your allies who seem principally concerned, and have reaped the most immediate advantage, had seconded your majesty with like vigour, whereby France might have been equally pressed on all sides.

"We are obliged to return our humble thanks to your majesty, for the care you have taken and the instances you have used with his imperial majesty for sending a considerable force to the relief of Spain under the command of prince Eugene; as being certainly the most likely method to restore the affairs of the confederacy in that country.

"But the frequent disappointments we have observed on the part of the emperor and empire to the great prejudice of the common cause, makes us think it our duty, in order that the war may be brought to a speedy and happy conclusion, to beseech your majesty to make the most pressing instances to the emperor, that he would with all expedition send powerful succours to his brother the king of Spain, under the conduct of that great and successful general: that he would timely and effectually make good what has been concerted for his putting 20,000 men under the duke of Savoy: and would also make use of his utmost power and interest for strengthening the army upon the Rhine which is now happily put under the command of that wise and valiant prince the elector of Hanover.

"We believe no part of this can be refused upon your majesty's earnest interposition, who has done such great things for the House of Austria; and this being complied with, we may reasonably hope, by God's assistance, the next will prove a happy and glorious campaign.

The Queen's Answer.] Her majesty's most gracious Answer was this:

"My Lords and Gentlemen; I am fully of your opinion, that no peace can be honourable or safe for us, or for our allies, till the entire monarchy of Spain be restored to the house of Austria; and very well pleased to find, that the measures I have concerted for the succour of the king of Spain, are so well approved by both Houses of Parliament. I shall continue my most pressing instances with the emperor for the hastening further succours, and that they may be commanded by prince Eugene; as also upon all the other particulars mentioned in your Address."

A Supply granted.] On the 19th of December, the Commons came to several Resolutions about the Supply, so that, by the 22d, they had given very near six millions. The particular sums were,

	£.	s.	d.
For 40,000 seamen	2,080,000	0	0
The ordinary of the navy	120,000	0	0
The 40,000 landmen in Flanders	894,272	3	6
The additional 10,000 men	177,511	3	6
The proportion of the Palatines	34,251	13	4
The proportion of the Saxons	43,251	12	6
The proportion of Bothmar's dragoons	9,269	16	6
The forces in Spain and Portugal	586,671	12	0
The subsidies to the allies	494,689	8	6
The duke of Savoy's augmentations	500,000	0	0
The guards and garrisons, invalids, and 5,000 men on the fleet	511,784	8	6
The duke of Savoy's special service in 1707	100,000	0	0
Completing the payment of the Hessians	22,957	2	0
The fortifications at Gibraltar	12,284	19	6
The payment of one year one quarter's interest upon debentures	60,334	19	6
A store-house, and wharf at Portsmouth	10,000	0	0
Circulating Exchequer bills	3,500	0	0
Transporting land forces	144,000	0	0
The land ordnance	120,000	0	0
The payment of captain Roch	2,126	18	6
	£. 5,933,657	17	4

The Commons' Address for recruiting the Army.] January 21, 1708. The Commons came to an unanimous Resolution, "That an humble Address be presented to her majesty, that she would be pleased to issue her royal proclamation, for the better putting in execution an Act made in the fifth year of her majesty's reign, 'for the better recruiting her majesty's land-forces and the marines; and for the greater encouragement of the parish-officers to perform their duty enjoined by that act,

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That for every person they shall bring before the magistrate, who shall be impressed, they do receive the sum of 20 shillings; and that every volunteer, for his encouragement to come into the service, do receive 4*l.*; and also that her majesty will be pleased to signify her royal pleasure, that the said volunteer shall have his discharge after three years service, if he desires it: as likewise, that her majesty will be graciously pleased to grant the same allowances and encouragements to such persons as shall voluntarily come into the service out of that part of the United Kingdom called Scotland."

The Queen's Answer.] The said Address being accordingly presented to the queen, her majesty was pleased to give answer, "That she should lose no time in giving orders for such a Proclamation, pursuant to their Address; nothing being more essential to the public service, than the immediate providing the necessary recruits for the army; and that she could not but hope they would take care it should be done, in such a manner as might be effectual."

State of the War in Spain considered.] Jan. 29. The Commons took into consideration the State of the War with Spain; and the residue of the Papers which had been laid before the House having been read, and the question being proposed, "That of the 29,395 English forces provided by parliament, for the service of Spain and Portugal, in the year 1707, there was but 8,660 in Spain and Portugal, at the time of the battle of Almanza;" a debate arose thereupon, which was adjourned to the 3d of February, when the House resumed it, and Mr. St. John offering to the House an Account of the number of Forces provided for Spain and Portugal in 1707, the same was brought up to the table, and read; and the question formerly proposed and debated, was, with an amendment, agreed unto by the House, as followeth, viz. Resolved, "That it appears to this House, that of the 29,395 English forces provided by parliament, for the service of Spain and Portugal in the year 1707, there were but 8,660 men, besides Commission and Non-commission officers, and servants, in Spain and Portugal, at the time of the battle of Almanza." Then a motion being made, and the question proposed, That an humble Address be presented to her majesty (laying the said Resolution before her majesty) and humbly desiring, That she would be graciously pleased to order an Account to be laid before that house, how it came to pass that there were no more English forces in Spain and Portugal at the time of the battle of Almanza; and also that her majesty would be pleased to use her utmost endeavours, that the war in Spain might be vigorously and effectually prosecuted: it was carried in the affirmative: and resolved that the Address be presented to her majesty by the whole House. Accordingly on the 5th, the Speaker, with the House, attended the queen with the said Address, to which her majesty answered: "Gentlemen, What you desire shall be carefully examined, and I will send you an answer in a short time."

The Lords' Address concerning the Complaints against Captain Kerr.] Feb. 7. All this while the Lords had under consideration the business of Spain, and the Grievances of the Merchants. In reference to the last, their lordships having maturely considered the Complaints against captain Kerr, presented the following Address to her majesty:

"May it please your most excellent majesty; We your majesty's most dutiful and obedient subjects, the Lords spiritual and temporal in parliament assembled, do humbly inform your majesty, that there has been laid before this house by Mr. Thomas Wood, in behalf of himself and divers other Jamaica merchants, a complaint against captain William Kerr, late commander of a squadron of your majesty's ships at that island, for refusing to grant convoys for their ships to the Spanish coast of America; and in particular, that the said Mr. Thomas Wood had offered to the said captain Kerr the sum of 600*l.* as a gratuity, if he would order one of your majesty's men of war under his command, to go as convoy to the Neptune sloop, and Martha galley, loaded with woollen and other goods of your majesty's subjects: That the said captain Kerr at that time seemed pleased with the proposal, and said, the Windsor should be the ship, and ordered Mr. Wood to make what dispatch he could in getting the galley and sloop ready. On which encouragement he got them ready to sail, and bought three hundred negroes to put on board them; and then acquainted captain Kerr therewith, and with the great charge he was at in maintaining the negroes, and his fear of their sickness. Captain Kerr then said, he feared he could not spare a man of war, but the next day sent Mr. Tudor Trevor, captain of the Windsor, to acquaint Mr. Wood, that captain Kerr said, he thought Mr. Wood could not have offered less than 2,000, or at least 1,500*l.* Whereupon Mr. Wood declared the sum was so great, that the trade could not bear it, and so the sloop and galley proceeded on their voyage without convoy; and in their return, the sloop, loaded with great wealth, being pursued by French privateers, and having no convoy, and crouding too much sail to get from the enemy, was unhappily overset and lost.

"The said Mr. Thomas Wood also made another complaint, that upon a further application to the said Mr. Kerr, for a convoy for three sloops bound for the said Spanish coast, he promised to give the Experiment man of war, commanded by captain Bowler, as a convoy, for which the said Mr. Wood agreed to give 800*l.*; 400*l.* part thereof, was paid to the said Bowler, and the other 400*l.* was made payable by note to one Mr. Herbert, for the use of Mr. Kerr, which note was sent in a letter to Mr. Kerr, and by him put into Mr. Herbert's hands: and besides that, as a further encouragement for allowing the said convoy, Mr. Kerr had an adventure of 1,500*l.* in the

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said sloops, without advancing any money. To this complaint Mr. Kerr put in his answer, and both parties were fully heard by themselves, and their witnesses: and upon the whole matter, the House came to this following Resolution, That the said complaint of the said Mr. Wood against the said Captain Kerr, as well in relation to the Neptune and Martha galley, as also in relation to the other three sloops that went under the convoy of the Experiment man of war, hath been fully made out and proved to the satisfaction of this house.

"These matters we think ourselves bound in duty to lay before your majesty, as being of the highest consequence to the trade of your majesty's subjects, whereupon the wealth and flourishing estate of the kingdom doth so manifestly depend.

"We do also think ourselves obliged to inform your majesty, that in the examination of these complaints, we find divers corrupt and unjustifiable practices of the like kind (though not attended with altogether such aggravating circumstances) have been too frequent in your majesty's fleet: and we are humbly of opinion, that nothing can be of more pernicious consequence than the suffering such abuses to proceed with impunity: and therefore we beseech your majesty to be pleased to give such effectual orders and directions, as shall for the future prevent the like corrupt doings, to the oppression of the merchants, who at this time lie under many heavy discouragements. And we do humbly hope, your majesty will be pleased to declare in such a manner as may be most public and effectual, to all commanders of squadrons, and captains of men of war, that their care and diligence in attending, protecting, and securing the trade of your majesty's subjects, when any charge of that nature should be committed to them, or when they shall have any opportunity of doing it, shall be a sure, particular, and principal recommendation of them to your majesty's favour, in any of their pretensions to promotion in your majesty's service."

The Queen's Answer.] To this Address, the queen made the following Answer:

"That her majesty would take care, in the most effectual manner, to discourage the abuses and ill practices complained of in that Address, and to prevent the like for the future; and the House might be assured, that her majesty would always countenance with her favour, such commanders and officers, who should discharge their duty by protecting and securing the trade of the nation."

Bill for rendering the Union more complete passed.] A Bill entitled, 'An act for rendering the Union of the two kingdoms more entire and complete, by which one privy council was to serve for the United Kingdom,' was read a third time. The question was put, Whether this bill shall pass? It was resolved in the affirmative.

Protest thereon.] "Dissentient' 1st, Because the clause of this bill, which relates to the privy council, determines the privy council of Scotland, so soon as the first day of May next, by which time the provision made in the same bill, instead of the privy council, for the security of the peace, by appointing justices of the peace, to be constituted under the great seal of Great Britain, in the several counties of Scotland, cannot be expected to take effect; and therefore we conceive, that if that clause had been framed so as not to take place till the first of October next, as was proposed, the privy council of Scotland had been abolished, as certainly as by the present bill, and with more security to the peace and tranquillity of that part of the United Kingdom.—2d, Because the clause in the bill which appoints the commissions and powers to the justices of peace, authorizes those justices to proceed against offenders during the first 15 days after the crime committed; and that in the liberties of heretable offices and officers for life, which, at the time of the Union of the two kingdoms, the justices of the peace (and all ordinary officers and ministers of justice) were by law excluded from doing; and therefore we apprehend, that the last-mentioned clause in the bill might be constructed to be an encroachment upon the 20th Article of the Union, and by that means be the occasion of raising great jealousies and discontents throughout that part of the United Kingdom. (Signed) Cowper, C. Jonat. Winton', Herbert, Crawfurd, Rivers, Isla, Pembroke, Wemyss, Roseberie, Marlborough, Mar, Berkeley, Lothian, Loudoun, Glassgow, Radnor, Cardigan, J. Bridgewater, Seafield, Cholmondely, Greenwich, Stair, Godolphin, Somerset, Leven."

Resolutions of the Commons against Captain Kerr.] Feb. 16. The Commons upon the Report made by sir Richard Onslow, from the Committee of the whole House, in relation to the State of the Navy, and Trade of the Nation, came to the following Resolutions: "1. That the complaint of Mr. Wood and other merchants against captain Kerr, in relation to the Neptune sloop and Martha galley, and also in relation to three other sloops, which were under the convoy of the Experiment man of war, hath been fully proved and made out. 2. That the trade to the West Indies, being of great advantage and benefit to Great Britain, hath, by captain Kerr's exacting exorbitant sums of money from the merchants for convoys, whilst he commanded a squadron of her majesty's ships of war in the West Indies, been greatly obstructed and prejudiced. 3. That the requiring or demanding of money for convoys, is illegal, oppressive to merchants, and destructive to trade. 4. That an humble Address be presented to her majesty, laying before her the said Resolutions, and humbly desiring that her majesty will be pleased, not to employ the said captain Kerr in her majesty's service for the future."

This Address having been presented to the queen, on the 26th, her majesty declared, "That she would comply with it."

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The Queen's Answer to the Commons' Address, concerning the Affairs of Spain and Portugal.] Feb. 18. The lord Coningesby acquainted the House, That her majesty had been pleased to send by him her Answer to their Address of the 3rd of that month; that her majesty would be pleased to order an Account to be laid before the House how it came to pass that there were no more English forces in Spain and Portugal, at the time of the battle of Almanza, and that her majesty would be pleased to use her utmost endeavours, that the war in Spain might be vigorously and effectually prosecuted; and he delivered the same to Mr. Speaker, who read it to the House, as followeth:

"ANNE *R.*

"Her majesty, having considered the Address of the House of Commons, presented to her the 5th instant, hath directed the following Answer to be returned.

"In relation to that part which concerns the prosecution of the war in Spain, her majesty is pleased to acquaint the House, That the restoring the Spanish monarchy to the house of Austria, and thereby the balance of power in Europe, was the principal inducement of the present war, so her majesty is sensible, That on the success thereof, not only the trade and tranquillity, but even the security of Great Britain, (subject to the Divine Providence) do in a great measure depend: And therefore her majesty can never be wanting to continue her utmost endeavours, as her Commons have desired, to prosecute with vigour and effect a war of such a nature and consequence, or to excite her allies, upon all occasions, to concur with her majesty's endeavours in that behalf.

"And as to the Account, how it came to pass, That there were no more English forces in Spain and Portugal, at the time of the battle of Almanza, her majesty cannot but be very much concerned, to find that matter has not been fully stated to the House; and to the end the same may be set in the clearest light, for the satisfaction of herself and her subjects, she hath caused an enquiry to be made of the regiments, that were intended to compose the number of 29,395 men, mentioned in the Address, (in which number are included officers and their servants, making a full fourth part of the whole, according to the establishment and allowance always made on the musters) and how many of them were in Spain and Portugal in January in 1706-7, when the resolutions were taken to make provision for their pay, and what regiments have been sent thither since that time: whereby it may appear, what numbers of men could reasonably be expected to be in Spain or Portugal on the 14th of April, 1707, when the said battle happened, and what diligence hath been used towards making up the said whole number, for which provision was made by parliament. Upon which enquiry it appears, That the said body of 29,395 English forces, were intended to consist of one regiment of horse, five regiments of dragoons, and one and thirty of foot; in all thirty-seven regiments.

"That the said 37 regiments were to be made up of one regiment of horse, four regiments of dragoons, and nineteen regiments of foot, which had served in Portugal and Spain, under the respective commands of the earls of Peterborough and Galway, and would, if compleat, have amounted to 18,852 men; and of one regiment of dragoons, and ten regiments of foot, which had been sent the year before to Portugal, under the command of the earl Rivers; and if they had arrived compleat in Spain, would have amounted to 8,833 men; and of two regiments, making together 1,710 men, which were designed to be new raised in England: so that in case all these 37 regiments could have been compleated, they would have made up the said whole number of 29,395 English forces, including officers and their servants.

"Her majesty is farther informed by lord Tyrawly, who was lieutenant-general, and col. Wade, who was adjutant-general, that as to the said regiments which had served in Spain under the earl of Peterborough, and those which had served in Portugal and Spain under the earl of Galway, the officers and their servants, with the private soldiers which remained in those regiments at the time of the said provision made by parliament, did amount in the whole to 12,017, besides 1,790 prisoners, who belonged to those regiments, in all 13,807 men, or thereabouts, and no more; although in the years 1704, 1705, and 1706, several recruits, amounting to 3,490 men, had been sent into Spain and Portugal by draughts made out of the standing regiments of England and Ireland, as a particular favour to the service of Spain, and never practised in any other case, but once to the West Indies.

"That as to the said regiment of dragoons, and ten regiments of foot, which were sent in the year 1706, under earl Rivers into Portugal, and consequently were near at hand to be transported to Spain for immediate service, the said earl Rivers received her majesty's commands so timely, that he arrived with them in the kingdom of Valencia about the latter end of January, 1706-7. And although those regiments, when they sailed from Torbay for Portugal, were by draughts compleated to the number of 8,297 men, including officers and servants; and if that number had arrived in Spain, would have made up about 22,104 English troops; yet soon after the arrival of the said forces with earl Rivers in Valencia, they were found to be reduced, by death or otherwise, to about 4,500 men, including officers and their servants; and therefore it was thought convenient, at the beginning of the year 1707, to take the common soldiers which remained in six regiments of foot, then in Valencia and Catalonia, and distribute them towards filling up several of the rest of the regiments then there, and to send the officers of the said six regiments, with the officers of the late earl of Barrymore's late regiment of foot, (which had the year before been converted into one of dragoons by the earl of Peterborough) into England, to raise their re-

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giments entirely of new men; which officers arrived in England about May and June 1707, and soon after had their recruiting orders, and have ever since been employed in that service, except those of the regiment of Barrymore, which some time since embarked for Portugal; so that it was impossible that the new-raised soldiers of those seven regiments could be in Spain or Portugal, at the time of the said battle.

"That upon duly weighing the premises, it doth not appear to her majesty how there could reasonably be expected of English forces in Spain or Portugal, at the time of the battle of Almanza (which happened so soon after the provision made by parliament) any more effective men than could be supplied by the said 13,807 men, including officers, servants and prisoners, before commanded by the earls of Peterborough and Galway respectively, and by the said numbers of about 4,500 men, including officers and servants, which remained of the forces that went under earl Rivers, as aforesaid.

"That as to the two new regiments which were intended to be raised, and to make 1710 men, part of the said 29,395 English forces, it was found to be for the advantage of the public in respect of the apparent difficulties of raising them (in concurrence with the men of the said seven regiments) to apply the money given for the said two regiments, to other uses of the war, according to the liberty given by authority of parliament in that behalf.

"That when the making of recruits grew extremely difficult, if not impracticable, and the making draughts from standing regiments had been found ruinous to the service, her majesty caused four regiments which were on the Irish establishment to be completed, and the levy money for completing the same, and the growing charge of their pay, to be placed on the savings of the non-effectives of the Spanish establishment; which four regiments embarked in April 1707, and arrived in Portugal in June following, and ought to be reckoned as so many recruits towards making up the said number of 29,395 English forces.

"That, since the arrival of the said four regiments in Portugal, three other regiments have been prepared, to wit, that of Barrymore on the Spanish establishment, that of Paston taken from the establishment of the guards in England, and that of Wynn taken from the establishment of the forces in Ireland; which have been embarked for some time for Portugal, as another reinforcement for the service of the said war.

"That as soon as her majesty had the news of the battle of Almanza, she applied herself immediately to obtain such foreign troops as were nearest at hand to supply that loss, and hath agreed for 7,000 Palatines, 3,000 Germans, and 1,200 Italians, the greatest part of which have been embarked ever since November last for Catalonia, and the rest are ready for embarkation as soon as there is an opportunity. Besides which, her majesty hath made application to the emperor for 6,000 Germans more, with an offer to pay all such part of them as his imperial majesty can spare for that service.

"And upon the whole matter, reflecting impartially upon the situation of this necessary war in Spain and Portugal, and upon the difficulties wherewith, for the time past, the men have been supplied from England and Ireland; and considering the losses and accidents which have attended the service in parts so remote, and the provision made for foreign forces for the future, her majesty assures herself, it will be very evident that no care has been wanting to support the war in Spain and Portugal in the most effectual manner."

Feb. 19. The Commons ordered, that the Addresses of the House to her majesty of the 18th December, and 12th of January last, about the Forces maintained by the kings of Spain and Portugal, be renewed to her majesty.

The Queen's Answer, in relation to the Troops of the Kings of Spain and Portugal.] Feb. 23. The Lord Coningesby acquainted the House, that their Addresses to her majesty of the 18th of December, and 12th of January, having been renewed, according to their order, her majesty had been pleased to give this Answer following, viz.

"That in relation to that part of the Address which concerns the forces of the king of Spain, her majesty has ordered to be laid before the House a List of the Troops provided by the king of Spain, for the service of the year 1707. And in relation to the Troops of Portugal, her majesty has, ever since the Treaty with that crown, given directions to her ministers there to use all possible means that his said majesty should furnish the whole of of the number of men agreed for by the said Treaty, and her majesty hopes, that those instances have, in a great measure, had their desired effect.—At the same time her majesty observes, That the methods of discipline there make it impossible to know the number of those Troops with the same exactness as is practised in other parts; and, considering with what chearfulness and success they marched through Spain to Madrid, and the losses they sustained, and being well assured, that the king of Portugal has lately raised, and is still raising a considerable number of forces, her majesty has not thought it advisable to make too nice an enquiry into the state of those Troops; especially since she is very sensible how diligent the enemy is in making continual application, to break an alliance of so great importance to the common cause."

This done, the Lord Coningesby presented to the House the List of the Troops provided by the king of Spain, for the service of the year 1707.

The Lords' Address relating to the Merchants' Complaint, on Account of Losses, for want of Cruizers and Convoys.] Feb. 25. The Lords agreed upon the following Address* to her majesty:

* "When the Examination was ended, and reported to the House, it was resolved to lay

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"We, your majesty's most dutiful and obe-
"dient subjects, the Lords spiritual and tem-
"poral, in parliament assembled, do humbly
"acquaint your majesty, that, early in this ses-
"sion of parliament, a Petition of several
"merchants, on behalf of themselves and
"others, traders of the city of London, was pre-
"sented to the House, whereby they complain-
"ed of great losses by the ill-timing of Convoys,
"and for want of cruizers; so that they durst
"no longer engage the remainder of their
"estates to carry on their several trades, un-
"less immediate care was taken to remedy
"these two main causes of their misfortunes.—
"This Petition containing Complaints of great
"consequence to your majesty's subjects; and
"we being sensible, that nothing but a strict
"and impartial enquiry into matters of fact,
"could put them in a due light, and enable us
"to distinguish between ill-grounded clamours,
"and a just cause of complaint, in order to
"take the usual method of being rightly and
"fully informed, did refer the Petition to a
"committee, and did also refer to the same
"committee several papers, which the House
"had found necessary to call for from the pro-
"per offices, for their better information in di-
"vers things relating to the Navy.—The com-
"mittee having prepared a Report, and pre-
"sented it to the House, upon a mature consi-
"deration, it was approved and agreed to; and
"we think it our duty humbly to lay the same
"before your majesty.—The Lords Commit-
"tees have heard many of the Petitioners upon
"their oaths, and have caused them to put
"their depositions into writing, and sign the
"same."

[Here follows the First Report.]

'The Lords Committees observing, that the complaints of the Petitioners naturally fell under several heads; for the greater ease of the House, have endeavoured in their report to reduce the evidence to the following method, always referring, as they proceed, to the depositions themselves.

'One thing complained of, was the insufficiency of Convoys appointed for the merchants, whereby their ships had from time to time become a prey to the superior force of the enemy.'

'A second point was, The merchants suffered great discouragement by their being forced to wait long for Convoys, even after the time promised and prefixed for their sailing, whereby the charge of seamen's wages and victuals, demurage of shipping, damage of goods, and loss of markets, made trading insupportable.

'A third Ground of Complaint, was, The untimely and unseasonable sailing of Convoys, whereby trade (to the West-Indies, especially) was in a manner ruined.

'A fourth was, The great want of cruizers in the Channel and Soundings.

'A fifth Complaint was, concerning the arbitrary proceedings of the captains of the queen's ships of war, in impressing seamen out of the merchant-ships in the West-Indies; as also upon their return into the ports of Great Britain, to the endangering of many, and loss of several ships.

'In order to make out the first Head of their Complaint, relating to the insufficiency of Convoys, they gave the following instances:

1. In June, 1706, a fleet of merchant-ships, under convoy of the Gosport man of war, bound for the West Indies, were attacked in the Soundings, and the Gosport and eight or nine of the merchant-ships were taken.—2. The Lisbon fleet, under convoy of the Swiftsure and Warspight, were attacked in March, 1706-7, and about 14 merchant ships taken in the Soundings.—3. The Newfoundland fleet under convoy of the Falkland and Medway's prize, were attacked in April, and some of them taken.—4. The coasting convoy was attacked in April off the Land's End.—5. The convoy from the Downs, consisting of the Hampton Court, the Royal Oak, and the Grafton, sailed the 1st of May last, and the next day were attacked

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the whole matter before the queen in an Address; and then the Tories discovered the design, that they drove at: for they moved in the committee, that prepared the Address, that the blame of all the Miscarriages might be laid upon the ministry, and on the cabinet council. It had been often said in the House of Lords, that it was not intended to make any complaint of the Prince himself [the Lord High Admiral]: and it not being admitted, that his Council was of a legal constitution, the complaining of them would be an acknowledging their authority; the blame therefore could be regularly laid no where, but on the ministry. This was much pressed by the duke of Buckinghamshire, the earl Rochester, and the lord Haversham. But to this it was answered by the earl of Orford, the lord Somers, and the lord Halifax, that the House ought to lay before the queen only that, which was made out before them upon oath; and therefore, since in the whole Examination the ministry and the cabinet council were not once named, they could offer the queen nothing to their prejudice. Some of the things complained of fell on the Navy-Board; which was a body acting by a legal authority. The Lords ought to lay before the queen such Miscarriages, as were proved to them, and leave it to her to find out, on whom the blame ought to be cast. So far was the ministry from appearing to be in fault, that they found several advertisements were sent by the secretaries of state to the admiralty, which, as appeared afterwards, were but too well grounded; and yet these were neglected by them; and that, which raised the clamour higher, was, that, during the winter, there were no cruizers lying in the channels, so that many ships, which had run through all dangers at sea, were taken in sight of land; for the privateers came up boldly to our ports. All this was digested into a full and clear Address laid by the House before the queen." Tindal.

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in the Channel, and the Hampton-court and the Grafton, and about 20 merchant-ships, were taken by the Dunkirk squadron.—A 6th instance was, that of the Russia ships outward bound this year, which was attacked by the Dunkirk squadron, and 16 of them taken.—And farther, in respect to the Russia Fleet, Mr. Dawson informed their lordships, that on the 29th of April, the governor and a committee of the Moscovia company, attended the Prince's council to know what convoy was appointed to conduct their ships to Archangel: They were told their convoy should be one fourth, and two fifth-rate ships. Upon their representing their fears of danger from the Dunkirk squadron, it was told them from the board, they need not be under any apprehension on that score, for the Dunkirk squadron was gone westward; which proved not true, for on the Thursday following, the Hampton-Court, Grafton, and Royal Oak, sailed out of the Downs with the ships under their convoy, and the next day, being the 2d of May, fell in with the Dunkirk squadron.

'To shew the Losses and Disappointments that have lately happened to the fleets of the Muscovia company, Mr. Dawson acquainted their lordships with the substance of a petition lately presented by the Muscovia company to the Prince's council; and upon his oath informed their lordships of many facts, in order to make good what was contained in that petition; but those facts being not particularly set down in his deposition delivered to their lordships, and signed by him, no notice is taken of them in this report. The merchants also desired, that notice might be taken of the Gazette of the 8th of May last.

'The merchants instanced in the convoy which went with the king of Portugal's horses, and many other merchants ships, which were attacked the 10th of October last, by the Dunkirk and Brest squadrons joined together, who burnt one of our men of war, and took three others, with about 30 of our merchant ships. To shew this, the merchants produced the Gazette of the 3d Nov. 1707. These several convoys having been thus attacked in the soundings and channel in less than a year and a half, the merchants insisted, was a convincing proof of their insufficiency.

'The second Head of Complaint was, of the great discouragement and prejudice to Trade, by the merchants being under a necessity of waiting so long for convoys, whereby their charges were exceedingly increased, great damages happened to their cargoes, and their markets were lost. They said, if any of their ships happened to escape the enemy in their return home, their losses were much heightened by their long lying for a convoy in the river; which, though very much and long complained of, yet seldom met with any redress.

'One instance of the damages arising by the delay of convoys, was, that several of our merchants had orders in July, 1704, for buying great quantities of corn for the King of Portugal's use, and had assignments on the treasury for 100,000 pieces of eight: Accordingly a great quantity of corn was bought in July and August, and frequent applications made to the Prince's council for convoy, and they promised from time to time to take care of it; but the convoy did not sail from Portsmouth till the 6th of February following, near seven months after they had orders: And by this delay their corn was in a very bad condition.

'The merchants had an order from the King of Portugal to the same purpose the year before, but then they had worse success in getting their corn conveyed to Portugal: and by these disappointments the Portugal court was discouraged in sending orders for more corn from hence, not only by reason of the great disappointment, as to time, but by the spoiling of the corn, whereby our corn was brought under great disrepute: and they now supply themselves from Holland, and thereby the Dutch not only reap the advantage thereof, but, as the corn comes chiefly to them from the Baltic seas, it is a great advantage to their trade and navigation.

'The 25th of March, 1707, a fleet sailed for Portugal, but there was then a prospect given, that there should soon go another convoy. This encouraged the shipping of great quantities of corn, and woollen manufactures; and the heat of the weather coming on, pressing applications were made for that convoy, but without success.

'The 10th of August, the grand fleet sailed from Portsmouth, but took no merchant ships under their convoy. The merchants having continued petitioning, till about the latter end of September, then told the Prince's council in plain terms, that if they did not grant a convoy immediately, the goods aboard their ships would inevitably perish in port. At that time they promised the Norfolk and Warspight; the merchants prayed a small ship might be added to see their ships safe along the coasts of Portugal, but that was denied; and the Prince's council told them, the Warspight had orders to that purpose.

'The merchants acquainted them, that so large a ship at that season durst not venture so near the shore, as was necessary to protect the trade from privateers lying near the shore; and did also represent the danger to which the main fleet of merchant ships, bound for Lisbon, would be exposed, if they proceeded with a single man of war; but this was not regarded; so the merchants were forced to submit, having some chance for saving their cargoes, if they proceeded; wherens they had none, if they continued longer in port; for not only their corn would be spoiled, but all their woollen manufactures were in danger of decaying by the heating of their corn, as had been often experienced.

'Soon after, a report came, that a French squadron was cruising in the Channel, and an embargo thereupon was laid on that fleet. The Portugal merchants drew up a remonstrance,

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representing the great hardships they had suffered: but it happened at the same time, when the remonstrance was presented to the Prince's council, news came, that some Dutch homeward bound West India ships, meeting with contrary winds in the Channel, had been taken for French, and were put into Portsmouth. Upon this, the merchants pressed they might proceed without delay, the cause of the embargo being removed: but the Board seemed displeased with their remonstrance, and told them, the embargo had been laid by the Prince, and could not be taken off without his direction; and that his highness being then at Newmarket, it must take up time before such an order could be sent; but, if they would stay a week longer, the Exeter should be added to the convoy, and the Nassau, if she could get up in time; to which several of the merchants did agree, and were obliged by the Board to sign a paper to that purpose.

'The fleet sailed the 18th Oct. with the Norfolk, Warspight, and Exeter, but the Nassau did not join: which the merchants said, was only for want of necessary orders; for the fleet was not under sail till three of the clock in the afternoon, and the Nassau came to Spithead before night.

'By reason of the insufficiency of this convoy, several ships were taken out of the fleet near Portland; and afterwards the fleet meeting with bad weather in the Bay of Biscay, the Warspight and Exeter came back disabled: whereas the merchant ships (except some few, which had fallen foul upon each other) proceeded to Lisbon with the Norfolk only: but several more ships were lost out of the fleet by the weakness of the convoy, and two men of war, out of three, being disabled, and forced to return, they thought it reasonable to conclude it could not be without some considerable defects in the ships, when they went out.

'Another instance insisted upon, was, that a great number of merchant ships having gotten into Portsmouth from Jamaica, Virginia, New England, Antigua, Lisbon, and other parts, in December, 1706, as also many coasters; all these were detained there for want of convoy to the Downs, from that time to the 24th of April following, being between four and five months, although frequent applications were made to the Prince's council, for convoy to the Downs, from the masters there, and the owners at London, and many promises given; and yet during that time, many of her majesty's ships lay there in harbour, and several men of war passed by from Plymouth, without calling for the merchant ships which lay there. Sir Thomas Hardy, with the East India ships, and other ships from Ireland, passed by without calling in.

'When these merchant ships came into Portsmouth, the Southampton lay ready fitted at Spithead, and continued there two months at least, and the Anglesea lay there a considerable time ready fitted. During this time, several frigates sailed from Portsmouth, and cruised up as far as Dungeness, within seven leagues of the Downs, but, for want of orders, took no ships with them. Whilst these ships lay there for want of convoy, there were at Spithead the following men of war, many of which lay there a considerable time: viz. The Anglesea, Southampton, Swiftsure, Warspight, Severn, Portland, Ruby, Feversham, August, Nassau, and the Albemarle, Reserve, Dover, Ramillies, Sun-Prize, and two fifth rates. Some of these (it was hoped, during the westerly winds, which were very frequent) might have been ordered to have seen these ships, being about 50 or 60 sail, to the Downs, which was within about 16 hours sail. All this while the merchants lay at great charges, besides the damage to their cargoes, and the loss of many of their voyages for the following season.

'About the 10th of February, the Ruby and Feversham, appointed as a convoy for them, gave sailing orders, but were again countermanded, and the Ruby went into the dock to clean. Afterwards, upon further importunity, the August was ordered to join the Ruby and Feversham; but instead of going for the Downs, they went first to fetch the coasters from Topsham, and then came to call for the ships at Portsmouth.

'About the beginning of October, 1706, Mr. Coward and Mr. Jones let several ships to freight to the Commissioners of the Victualling Office, for the queen's service directly to Jamaica: being told, the convoy waited for them, they were bound by charter-party to be at the Nore the 15th of November following, on penalty of 5*s.* per ton freight. Their ships were ready, and the wind was fair, but they were detained for the convoy, and carried from place to place, from the Downs to Portsmouth, thence to Plymouth, thence to Ireland, thence to Barbadoes and Antigua, staying at each place, so that they arrived not at Jamaica till the 3rd of June last, to the ruin of their voyage, and their ships, of which they just then had an account, that they are lately come back to Ireland.

'Mr. Coward, the 11th Feb. last, let to freight to the Commissioners of Victualling in the queen's service for Lisbon, the Walthamstow galley, (and as he was bound by charter-party, under the same penalty) was ready by the 1st of March last, but was detained till the end of August, before he sailed from England.

'Captain Kerr appointed all the ships at Jamaica to be ready to sail the 1st of August last, but then he made them wait till the 26th of August, and after, with his convoy, left them all when at sea.

'Mr. Palmer, in 1705, had a part in a frigate called the Ruby, laden with corn and bale goods for Lisbon; and, in company with many others, was convoyed from the Downs to Portsmouth, by the Litchfield prize; but for want of orders, she could not see them at Plymouth, about 12 hours sail further, where they might have joined sir Cloudesly Shovel's fleet, bound for Portugal. Upon this, the merchants sent many petitions to the Prince's council, which together with the answers, (being direct re-

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fusals) were inserted in his deposition. Mr. Palmer, in person, afterwards, in the name of the several merchants, attended the Prince's council, and represented, that, without speedy relief, all the corn aboard the ships would be spoiled; but the answer was, That no convoy could be granted; and at last, by a violent storm the 10th of August, about 20 sail of these were cast away, and amongst them the Ruby, worth at least, 7,000*l.*

'For a farther evidence, the merchants produced to their lordships the Gazette of the 1st of May 1707, and shewed the paragraph from Ostend, in which are these words: 'A fleet of 'merchant ships, which lay five months in the 'Downs, consisting of 55 sail, arrived at Ostend 'this evening, to the great advantage and satis-'faction of this place.' This the merchants observed was a great delay for so short a passage, and must extremely prejudice the Flanders trade, which the parliament thought fit to encourage, by passing an act the last session for repealing the prohibition of importing lace.

'A third Ground of the merchants' Complaint was, That by the untimely and unseasonable proceeding of convoys, especially to the West-Indies, they were very great sufferers upon many accounts. By arriving there at an improper time, in the hot, sultry, and rainy seasons, a great mortality is occasioned among the seamen, which proves a loss of their voyages, for want of hands to bring home their ships, or put them to vast charges to purchase men there. The same cause obliges the traders to the West Indies to return in the winter time, when they commonly meet with stormy and foggy weather, which is often the occasion of their separation from their convoy; who being well manned, and crowding all the sail they can, out sail the merchant ships, being (for the reasons aforesaid) generally but weakly manned, and so are left in distress to the mercy of the enemy, or the seas, for want of a little conduct in the convoys in shortening sails, and taking care of them.

'An instance of this was alledged in the fleet now missing from Jamaica, which came under convoy of captain Kerr, with three men of war, the Breda, the Sunderland, and the Experiment, and a fire-ship; one of which, the Sunderland, came alone to Portsmouth, the Breda, and the fire-ship, to Plymouth, and the Experiment afterwards to Spithead, but not one merchant-man, except a small ship to Bristol.

'The merchants observed that if the convoy had fired guns, at tacking in the night, or used any other reasonable care, they could hardly have lost a whole fleet of above twenty sail. They observed also, That the convoy were all come to Portsmouth or Plymouth, and yet Mr. Kerr himself had wrote from Plymouth, that, in case of separation, the rendezvous was to have been in Ireland.

'The Jamaica merchants complain, That they had long lain under great discouragements. That about October, 1705, they applied themselves to the Prince's council, complaining of the many losses in their fleet the preceding year, which had to a great degree disabled them from sending another that year: But that however, depending upon the then repeated assurances, that they should have a sufficient convoy to depart early, and more particularly, upon an order sent from that board to the Jamaica Coffee-House, That the merchants should get their ships ready to depart by the 20th of January, at farthest; they had prevailed with sundry persons to let their ships go to Jamaica. Accordingly, ships were fitted out with great expedition, and men hired at extravagant wages. But, after all those fair promises, their ships, thus fitted, lay almost two months beyond the time prefixed, for want of a convoy.

'The 21st of March, the merchants, as men in despair, reciting the former assurances given them, petitioned his royal highness, that their ships might depart with the first squadron bound out of their channel; adding, That if that fleet should miscarry by their late going out, and return, they desponded of getting ships to carry on the trade the succeeding year.

'Howbeit, that fleet was detained till the beginning of May, and the ill success too well answered the merchants' apprehensions; for the greatest part of the fleet, being separated from their convoy in their return, were lost.

'That by these and many other hardships, the Jamaica Trade is brought to so low a state, that whereas at the beginning of the war, their fleets home, have consisted of 30 or 40 sail, when they were lately informed by the Prince's council, that a sufficient convoy should be ready to depart with their fleet in a proper time, they were obliged to acquaint the board, that they had now but two ships in loading.

'They also said, That, without some speedy remedy, they should be quite disabled to make any farther efforts, to carry on the hopeful Trade begun to the Spanish West Indies: upon account whereof more woollen and other English manufactures were shipped to Jamaica for that Trade, than had been in several years before.

'In respect to the Virginia Trade; In Oct. 1705 some ships sailed for Virginia, under convoy of the Woolwich and Advice, who were ordered to stay there till reinforced from England; and the merchants were then promised, that the Greenwich and the Hazardous should sail with the first fair wind in January following; but those ships did not sail till May, 1706. This delay was the cause they did not reach Virginia till August; at which time the greatest part of their fleet had been sixteen months in their voyage. By this length of the voyage, their whole freight was expended in wages, victuals, and other incident charges. 2. The ships lying there almost two whole summers, several of their bottoms were perished by the worms, which in those parts always eat in the summer months. 3. To compleat their misfortune, they were forced to make a winter pas-

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sage home, and by the badness of the weather, &c. sixteen or more ships were sunk or foundered in the sea, and about eight thousand hogsheads of tobacco lost, other ships with above two thousand hogsheads of tobacco more, were taken and carried into France; and divers ships were forced back to America, and since returning without convoy, are lost, and not heard of.

'The particulars of these losses are annexed to the Depositions given in by the merchants, and thereby it is alledged, That the public revenue has suffered above 150,000*l.*, besides the very great loss to the particular persons concerned.

'It having been the last winter represented by the Commissioners for Trade, That it was necessary a convoy should go to Virginia in the spring, to fetch the ships which should be there, and that they should stay there 20 days after their arrival, to collect them the better together; a great body of ships which had taken stores, &c. for Lisbon, upon her majesty's account, were thereby encouraged to go from thence to Virginia, and many other ships went from London directly. But most of these remained in Virginia in September last, expecting this convoy, and will now be obliged to come home without convoy in the winter season: for though the last spring her majesty in council ordered a convoy to be ready in August, to go for Virginia, yet they still remain at Portsmouth. By this the Virginia ships will be forced to lie all summer in Virginia, and come home again in the winter, and thereby not only the merchants losses and damages will be very great, and the revenue suffer much, but there is aboard this fleet, far greater quantities of the woollen manufacture, for the winter cloathing of that country, than has been usually sent to those parts, which now cannot arrive till the winter be over, and the market past; and necessity will justify those people for undertaking our manufactures, which many of them have already fallen into: the ill consequences of which the merchants submitted to the consideration of their lordships. They also said, That, for some years past, there had been no frigate appointed to take care of the Virginia coast, for want of which, many ships have been taken, going in, and coming out, by the French privateers. These merchants prayed their lordships to use some means, that the coasts of Virginia may be guarded, proper convoys appointed, and the merchants have due notice thereof, and that then they might neither be delayed nor diverted, and that the admiral's protection might stand good, till the ships were arrived in the proper ports of discharge. A fourth Head of the Merchants' Complaint was, the great want of cruisers in the Channel and Soundings. Mr. John Wood informed their lordships, That in the space of 16 months last past, he had been concerned as owner and freighter of several ships that loaded corn in the port of Shoreham in Sussex for Holland and Lisbon. The Union frigate was ready to sail for Portsmouth in October, 1706, but the coast was so infested by privateers, that she could not, without apparent danger, proceed in Portsmouth, though only eight or ten leagues distant: thereupon he and other owners, in like circumstances, made frequent application to the Prince's council, for a man of war to convoy those ships, but they from time to time delayed to order any ship to call at Shoreham. He said, that upon application the Prince's council told them, that they had only some third-rate men of war, too large to lie on that coast, except a frigate of about 26 guns, which admiral Mitchell said they might have; but admiral Churchill said, if she was sent, she would certainly be taken. At last Mr. Wood despairing of assistance, after waiting six months (the ship lying at great charges, and having on board a perishing commodity) notwithstanding the apparent hazard, directed the ship should sail for Portsmouth, but they were soon chased by three privateers, and thereupon got under the guns of Brighthelmston, but found little protection there, the guns being not in order, and there being no powder to charge them: but night coming on, and the weather bad, and the privateers standing off to sea, the Union frigate, by the favour of the night, weighed and stood for the Downs, and by the dawning of the day was got up with Beachy-head, but there fell in with several privateers, who chased her under the guns of Hastings, where then lay a tender to a man of war, with about an 100 impressed men, which durst not stir out, either for the Downs or Portsmouth, for fear of the French privateers, which were very numerous on the coast, and almost constantly cruising between Beachey-head and Shoreham, without interruption from our men of war. Some days after, a convoy coming from the westward with some ships, the Union frigate joined them, and got into the Downs. The same Mr. Wood, in the months of April, May and June last, was concerned in several other ships freighted with corn, in the same port of Shoreham, for Lisbon and Holland; but then also he did not dare to suffer his ships to stir out, the coast continuing still infested with French privateers. There was also, at that time, in the same harbour, a vessel laden with timber for the use of the navy, which was said to have lain there 12 or 13 months for want of convoy to Portsmouth. At last, upon frequent applications to the Prince's council, a convoy was sent, and the ships went out; but soon after they had joined, the convoy run away, and left the ships, upon a report that the Dunkirk squadron was upon the coast, and the ships were pursued by privateers, and with great difficulty got to Portsmouth. The privateers continuing to infest the coast as much as ever, Mr. Wood refused to be farther concerned from the port of Shoreham, and has not heard of any corn exported since that time from that harbour, which is a great impoverishment to the country there-

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abouts, the price of corn there being 20 or 25 per cent. cheaper than at any other places which lye nearer Portsmouth. Mr. Thomas Palmer deposed, That within three years he has lost to the enemy in the Channel and Soundings, a large part in three running galleys, outward bound to the Streights, and in six weeks time, has lost as much coming home, as would have paid her majesty some thousand pounds custom. The Pilgrim galley, laden with fish, was taken in the Soundings, by three large privateers. The Providence galley, laden with our manufactory, and some fish, lead and tin, bound to the Streights, worth near 10,000*l.* was taken off of Dungeness some few hours sail from the Downs, by three or four large Dunkirkers. The Mead galley and Fly galley, going out in March last in company with the London galley, they were chased off of Beachey-head by three privateers, who took the two first, the London narrowly escaping, as he was informed from Plymouth by the master, who informed him in the same letter, that a neutral ship put in there, and had been boarded above a dozen times in one day by French privateers.

'The 15th of the same March, several merchants made a remonstance of their losses to the Prince's council, who told them, They were not to expect convoy for their running galleys: They replied, they did not, but desired cruisers might be appointed for the Channel and Soundings, the running-galleys being now the vessels which chiefly carried on trade; and that if some better care were not taken, even the men of war would be in danger in the Channel. The merchants were directed to leave their remonstrance, that it might be looked into at a full board, but it had no effect: The same vessel, the London, going out in company of the Handiside and Fleet galley, the London was taken, and the Handiside blown up in a fight off of the Lizard, and the Fleet galley only escaped.

'The Antelope galley, laden with lead, tar, and stock-fish for the Streights, was chased off of Beachey-head, by the Lyme and Gosport men of war, under Dutch colours; the master taking them to be enemies, made the best of his way for Hastings; then the men of war hoisted English colours, but the master not trusting to colours, unfortunately ran the galley ashore: This accident cost above 100*l.* to get her into Rye, and above twice as much since, upon the account of loss of time, she being detained there by the swarms of privateers, as appears by several of the master's letters of the dates following.

'The 15th of Oct., there were two privateers and a snow off that harbour. The 17th, two privateers off that harbour. The 22nd two ships of 30 guns within three miles of the harbour. The 24th, four French men of war at anchor within sight of the town. The 28th, a fleet passed by, with which the master would have joined, but could not, because there lay three French privateers between them and him, and seven more in sight. The 30th, a Dutch dogger was chased in there by seven privateers. The 5th of Nov. a sloop came into that harbour, which had been taken and ransomed coming from Lisbon, and afterwards boarded and plundered by several French privateers in the channel. The master of the sloop gave an account that three privateers were lying off the Isle of Wight, three off of Beachey, and five or six others off of Rye. The 8th of November, six sail of French ships, and a sloop lay in sight of Rye, and the sloop was come within a mile of the harbour, right in the Channel. The 15th, a gentleman that rode along the coast saw Fourbin's squadron, and several privateers cruising off of Beachey. The 17th, another master saw eight sail of French ships off the Downs, who were sending their scouts very frequently to observe what was a doing.

'The merchants desired to submit it to the consideration of the House, if there be a probability of carrying on trade under such difficult circumstances.

'Captain Winter came in the King William galley the 14th of March last from Gibraltar, in company of the Pearl, the Hanover, and the Lodington galleys, and at the Streights mouth they joined the Sea-Horse and the Sunderland. The 31st of March, they were pursued by four sail, but escaped them by tacking in the night. Upon the 9th of April, they had sight of Beachey-Head, and soon after five sail of privateers, lying under the land, bore down upon them, who all made the best of their way; but the Lodington and the Sunderland were taken, and the Hanover and king William were pursued within two leagues of Dover-Castle, and the privateers would have followed them into the road, had they not seen a great ship ahead of them, standing in for that place. And though the enemies cruise in such great numbers, that it is very hard for any English ships bound homeward to escape, yet captain Winter said, he did not see one English cruiser throughout his whole voyage.

'Mr. William Wood, in order to satisfy their lordships that few or no cruisers had been employed, gave an account of many ships taken and attacked at sundry times, some within a few hours sail of the river Thames, viz.

'Off Beachey or Dungeness in December, 1706, Dove galley, Phœnix, Mary galley, Betty galley, taken in company of the Pearl galley, Lewis, Greyhound escaped.

'Off Plymouth in December and January, Volant, Hurdis, George, Berkeley galley, taken together. Tuscan and Page escaped.

'Off Dungeness in January, Trumball galley, taken with 15,000 pieces of eight on board.

'Off Dungeness in March, Mead galley, Fly galley, taken. The London at that time escaped.

'Off Beachey-Head in March, Anne galley, Eagle, taken, Neptune, Phœnix, Mary, Hooker, escaped.

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'In April, 1707, Sunderland, Lodington, taken in company of the Sea-Horse, Pearl galley, Hanover, King William, escaped.

'In 1704, few or no ships arrived safe for want of proper cruisers. The Jamaica traders lost 14 ships in the Soundings and Channel.

'Sir George Byng and Admiral Jennings in January, 1704-5, were at sea cruising till October following, during which time the English ships were protected, and twenty sail of the enemies privateers and merchant ships were taken, but from that time till October or November 1706, very few ships were cruising.—Then Sir Thomas Hardy sailed with five men of war, which all returned in 5 or 6 weeks, and soon after sailed for Ireland, and returned to the Downs in February or March, since which time the merchants have had no knowledge of any ships cruising till September, 1707.—Mr. Wood told their lordships, that the account he gave, was the best he was able to procure of the number of Cruizers employed, and the time they have been in service since October, 1705. Thomas Pipon, commander of the Elizabeth galley, said, that being bound for London from Faro, he had sight of Beachy the 22d of November last, there he spied three sail to the Eastward of him, and stood from them, but soon after seeing three more near his wake, and having tried their sailing, and finding he could by no means escape, he being so encompassed, he ran his ship on shore at East-Bourn, on the coast of Sussex, in hopes of some assistance; but two of the privateers came and anchored within pistol shot of the ship, and, by firing forced the ships company to get on shore, after the best defence they could make, having first endeavoured to disable the ship, and put fire to some of the sails; but the enemy was so near, that they soon extinguished the fire; and, by the help of the rising water, got off the Elizabeth galley and carried her away.

'Mr. Pipon said, that while he stayed at Eastbourn, which was two days, he saw six or seven privateers cruising off and on, several very near the shore; and was informed by the people of the place, that, for four or five weeks past, they had seen French privateers almost every day, sometimes to the number of sixteen, but mostly eight or ten of them, and some of good force.—He said, by reason of their great numbers, and cruising in the narrow of the Channel, it is very difficult for any ships to avoid falling into their hands, especially since there are no good harbours or forts to succour them, nigh that place; and the enemy's harbours of Dunkirk and Calais are so near, and so few English cruisers in the Channel to intercept the said privateers and their prizes, which makes the ships companies be altogether for running on shore to save their liberties.

'Captain George Guillaume told their Lordships, that in his last voyage from St. Ubes to London, in the ketch Concord, on Sunday the 16th of November last, he was forced, by contrary winds, into Falmouth harbour; the next day he saw three French privateers take a Dutch ship within three miles of Pendennis Castle. On Thursday he left Falmouth, and on Friday he saw two vessels which chased him into Fresh Water Bay in the Isle of Wight; but, night coming on, and the weather very black, he escaped betwixt the land and the ships. On Saturday the 22d, he made Beachy-Head; and, as soon as it was day, saw a French privateer under his lee; and soon after, saw two at his stern, and three more at his lee, and two more a breast of him, which made him resolve to run his vessel on shore, being very near land. Upon this, the privateers put up English colours, which made him forbear for some time to run his ship ashore; but one of them putting all his sails out, and coming upon him, he grounded his vessel, and disabled her all he could, that they might not carry her off, and then went ashore at a place called Pevensey, and went to the town and got some assistance. The privateer came to an anchor, and fired upon them, and the shot went above an half a mile into the country. He said, if they had any great guns, they might have saved their vessel; for it was above five hours before the privateer had her afloat.

'The two following days (which was the time he stayed there) he saw from the shore six privateers. He affirmed, that in his whole passage he did not see any English man of war.

'The merchants gave an account of the vast advantage of the Mediterranean trade, which, for a considerable time, had been carried on with great success, by nimble galleys, without putting the government to the charge of convoys.

'Mr. Gould informed, that beside the Turkey trade, and trade from several other places in the Mediterranean, the customs of Leghorn, Venice, and Genoa, did amount to about 300,000*l.* sterling per annum; and an account was also given in by him, in particular, of the very great annual exports to Leghorn, alone, consisting of our manufactures, goods of our native growth, and other merchandizes; which trade had continued for many years, while our channel was better guarded; but of late it is in a manner quite interrupted for want of cruizers in the Channel and Soundings, and many rich ships taken there. He mentioned, in particular, the Mazarin galley from Turkey, worth above 80,000*l.* taken in the Soundings: the Mediterranean galley from Zant, taken off Beachy Head; the St. George galley, taken in the Channel; the Royal Anne galley, taken in the Channel, where she had made boards for about fifteen days together without seeing any one cruiser to help her; the Trumball galley, rich in money, taken near the Downs.—He said, he declined naming more, though he could mention several others, the rather, because some of them are included in the great lists of merchants losses, given in to their lordships, consisting of near 1160 ships: but, in order to shew the difference, when any care was taken for cruisers, he

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produced a list to their lordships of 91 sail of galleys bound from Leghorn, which arrived safe, without convoys, from September, 1703, to October, 1704, whilst there were some cruisers employed.

'He said, that foreigners did reproach our nation for the great neglect of the merchants ships; and to this purpose he produced two letters from his correspondents at Leghorn, one dated the 12th of September, in which, after taking notice of the loss of the Russia ships, it follows; 'Seeing 'the enemy fall in with so many of our con- 'voys, we begin to suspect there may be some 'traitors among us.' And another letter, in which (amongst other things) it is said, 'They 'have received a lamentable account of the 'Lisbon Horse convoy, by which they observed 'there had been strange management in our 'maritime affairs, seeing we can suffer so much 'near home.'

'He also produced another letter from Plymouth, dated the 18th Nov. last, wherein it was said, That the French privateers are so bold as to cruise in our very mouth: About four days since, two of them chased a Dutchman from Mounts-bay into our very harbour within Pentee, where there was a sharp dispute, and some score of guns fired: There was at that time between the island and the main, the three Welch convoys, but neither of them stirred, having no orders; however the Dutchman saved his ship; but this is enough, and too much on so melancholy a subject.—Mr. William Coward said, he believed that the list of eleven hundred and odd sail of merchantships lost, given in to their lordships, was very far short of the whole number.

'As to the Fifth Head of the merchants complaints concerning their hard usage, in having their men impressed out of their ships in the West Indies, as also upon their return home, by the captains of the queen's ships, to the very great loss and danger of their ships and merchandise, several instances were laid before their lordships.

'The Gould frigate, Josiah Dowell, master, arrived at Jamaica in September, 1703, and whilst he went to wait upon the governor, captain Douglass, of the Norwich, impressed five of his best seamen: The master waited on the captain, and shewed him his protection, but Douglass told the master, he had twenty-five seamen, and his orders from the Admiralty were to press every fifth man: And though the master acquainted him, that some of his men were sick, and that he really wanted men to sail his ship home, yet he could not prevail but for one seaman; the captain telling him, if he would, he could take away all his men, and threatened to stop his ship, unless he would pay him the wages of the seamen he had so impressed. Upon Dowell's arrival at Plymouth, his seamen were again impressed. This impressing of the seamen, and the extraordinary charges occasioned thereby, and the delays of the ship, amounted to near 1,000*l.* loss to the owner and merchants in that voyage.

'In a second voyage to Jamaica in Nov. 1705, by the same ship, Daniel Bright, master, several of his men were impressed, and the master forced to hire others at an extravagant rate, and to take French prisoners on board to help to sail his ship home: And upon his arrival at Plymouth the 5th of April, 1706, all his men except his two mates, the carpenter, steward, and two boys, were impressed, and taken from him by one Saunders, a midshipman belonging to the Orford, and other press-gangs, so that his ship lay in danger: and he could not have brought her to London, but by the help of a Dutch man of war, who furnished him with ten men, after he was refused by all the queen's men of war, to whom he applied in every place where he came, though in vain.

'In July, 1704, the Roundburk galley, John Sampson, master, arrived at Jamaica, where captain Bois, in the Nonsuch man of war, pressed five of his seamen, whereby he was disabled (though fully loaden) to sail in company of a ship of good force, which then sailed for London; and with great difficulty, and after long delay, (with much damage and danger to the ship in the mean time) the master got four seamen more, two of his own five before pressed from him, for which two he was forced to give captain Bois a pipe of wine, charged at 25*l.* But the ship proving leaky, by long lying, was lost on her passage home, in the Gulph of Florida; which loss in the ship and goods was computed to amount to 2,500*l.* to the owner, Mr. Coward, beside the losses of several other merchants.

'The Somerset frigate, John Wicksted master, arrived at Barbadoes in April or May, 1705, where several of his men were impressed, and returning to Plymouth the 9th of August, 1705, captain Johnson of the Valour man of war, impressed five of his best seamen; and the next night in a violent storm the ship and cargo was lost; which loss in ship and goods was computed at 2,000*l.* to the owner Mr. Coward, besides the losses of other merchants.

'The Walthamstow galley, Peter Roberts, master, arriving from Barbadoes about the same time, though he had several of his men impressed at Barbadoes, and only nine men and two boys left, with himself on board; yet captain Roach of the Fox, impressed three of his best men, his boatswain being one; although the master told him how weak he was, and that he had but one anchor on board: captain Roach said to him, if he was saucy, he would take him and all his ship's company aboard, and whip the master at the Geers. Captain Roach sent him three Italians who could speak no English, and they the next night in a storm run away with the ship's boat, which was staved, and the ship ran on shore, and so continued 13 days to her damage of 4 or 500*l.* besides the great prejudice to the merchants goods; upon which account the master protested at Plymouth, and the protestation was delivered to their lordships, and is laid before the House.

'Their lordships do likewise acquaint the

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House, that there has been offered to them an information of Mr. Benjamin Way, in which he represented in behalf of himself and other owners and freighters of the London galley, that the said galley sailed from Jamaica the latter end of February last, bound for London, under convoy of her majesty's ship the Northumberland, captain Rotley, commander, with whom they kept company till the 7th of March. But there having been seven men impressed from her before she left Jamaica, and being forced to take French prisoners on board, and to hire what other men she could at excessive wages, to help to sail the galley home, and crowding all the sail they could to avoid being left by the convoy, the galley suffered such damage in her masts, as disabled her to keep company, and being weakly manned and in great distress, they fired guns and made signals; but being left by their convoy, the ship and cargo perished, to the loss of many thousand pounds.

'The merchants made the following observations to their lordships, from the evidence given before them, that the Prince's council were fully informed of the great number of the enemy's privateers; that the nation had lost the exportation of corn for the king of Portugal's stores by the delays of the convoys; and the Portuguese army is now furnished by the Dutch with corn from the Baltic; and the advantage designed by act of parliament to the land-owner, by giving a bounty of five shillings the quarter upon exportation, is in a manner disappointed, especially since, for want of cruisers, the running-galleys are almost wholly discouraged—That the Prince's council were so sensible of the swarming of privateers on the coasts, that they declined sending one of her majesty's ships of 26 guns, lest she should be taken.—And that from Tuesday the 29th of April, 1707, when Mr. Dawson was told by the Prince's council, that they had notice the Dunkirk squadron was gone westward, to Thursday the first of May, when the Hampton-court, Royal Oak, and Grafton, with the merchant ships under their convoy, sailed out of the Downs, there was time enough to have sent orders not only by express, but by ordinary post, to have stopped the sailing of that convoy.

'The Lords committees do also herewith present to the House the great List of ships lost, which the merchants did lay before them, consisting of 1146. The Lords committees do also beg leave to inform your lordships, that the method used by them in taking the examinations of the several merchants was, that, after they had signed their several depositions, their lordships required them to depose, that all that was contained in their papers, respectively, which was said to be of their own knowledge, was true, and what was mentioned therein, as heard by them, or received in writing from any other person, they believed to be true.

"After this Report had been made and "agreed to, the House was moved, that it "might be transmitted to the lord high admi- "ral, which was readily assented to, and the "same was transmitted accordingly, together "with all the depositions relating thereto.

"On the 9th of January last, a paper was "laid before the House, which purported to be "the lord high admiral's answer, viz.

The Lord High-Admiral's ANSWER to the Report made to the House of Peers, from the Lords Committees appointed to consider of the Petition of several Merchants and others, Traders of the City of London.

Admiralty, Jan. 8, 1707-8.

'The Lords spiritual and temporal in parliament assembled, having by their order, bearing date the 17th day of December last, directed, that a copy of the Report should be sent to the Lord High-Admiral, which was made to them on the same day, from the Lords Committees appointed to consider of the petition of several merchants, on behalf of themselves and others, traders of the city of London, and of the depositions to which the said Report doth refer; and the said merchants having represented in their petition, that they have, of late years, sustained great losses by the insufficiency, by the delays, and by the unseasonable sailing of convoys, and the want of cruisers; his royal highness has thought it necessary, that this general complaint, as well as the several particulars contained in the afore-mentioned Report, should receive such answers, as may set the whole matter in a much truer light than their lordships can possibly have by those papers only, from which the Report had been collected: And therefore it is desired that their lordships will be referred to the following particulars.

1. 'As to the insufficiency of convoys.

'The Lord High-Admiral does not observe any instances given, where the trades that usually proceed with convoys have ever wanted a reasonable and sufficient strength for their security; and even the last year, the stated convoys have been much stronger than formerly. The misfortunes of several convoys being attacked by a superior force, were no ways to have been prevented but by whole squadrons: But it is to be observed, that all the instances mentioned in their lordships report, happened in the latter years of this present war. In the two first years of her majesty's reign, there were not many ships employed either in or towards the Mediterranean, and even those not long absent from our own coasts; so that there were undoubtedly many more ships, and those very proper too to be employed in the defence of the trade of the nation, with respect not only to convoys, but cruisers: Whereas, in the latter years of her majesty's reign, the public service hath required the employing great part of our fleet abroad in the Mediterranean; and although several ships have returned from thence to England in the latter end of those years, yet they have not been fit for any service,

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until the time appointed, wherein it was necessary they should be sent abroad again; for they were such as were the least able to continue out, and consequently wanted the greatest repairs.

2. 'As to the merchants waiting long for convoys after the time promised and fixed for their sailing.

'The many constant, as well as accidental services, which have absolutely required the use of the queen's ships, have often left but very little choice of ships for foreign convoys: But when applications have been made by the merchants, the proper convoys have been ordered to be got in readiness by the time desired, and not afterwards diverted to other uses; yet it hath sometimes happened, upon their coming into the dock, that they have been found, by a long and constant use, in a much worse condition than was hoped and expected. The necessity of fitting ships at different ports for the same convoy, and contrary winds have often prevented their joining at the rendevous, and sometimes the want of men, and necessity of removing them from ship to ship, and the constant care to pay the men so removed before they sailed, may have occasioned the delays complained of; yet, upon a strict enquiry, it will appear, that the delays are as often to be imputed to the traders, who are seldom ready to sail altogether at the same time, and that the queen's ships have as often staid for the merchants, as they for their convoys; as their lordships may observe from one instance in the paper herewith transmitted to them, marked *A*.

3. 'As to the want of sufficient cruisers in the Soundings and Channel.

'There hath every year been a provision made for cruisers in the Soundings, Channel, North Seas, and never less than twelve for the North Seas, and fifteen for the Soundings, which were as many as other necessary and pressing services would possibly admit of; but they have been very frequently diverted from the service of cruising, upon the applications of the merchants themselves, either for the convoying up the Channel their homeward-bound ships, or the fetching them from Ireland, or other parts, and in convoying the traders to Archangel, the Baltic, Holland, &c. And there hath been a necessity to comply with this, because those services could not possibly be otherwise accommodated, unless some of the few ships had been taken off, which were on various stations placed on the coast, to secure the trade from one port to another.

4. 'As to the complaint of the arbitrary proceedings of the captains of her majesty's ships, in impressing seamen from merchant ships in the West-Indies, and at their return into the ports of Great-Britain.

'If this hath been done, it is contrary to the constant and direct orders given to the said captains, by which they are required not to impress any men from merchant ships in the plantations, without applying to, and receiving the consent of the respective governors, and then never above one out of five, which is more than have ever been exacted from them during this war. And if, for the better manning her majesty's fleet, any men are taken from merchant ships when they arrive here, the captains of her majesty's ships are strictly required to supply as many good men in their room, to bring them unto the ports whereto they are designed, and to send a careful officer with them; and when such men have performed those services, they are allowed the usual conduct-money to enable them to repair to their proper ships again. But if this should be true, it must needs seem hard to their lordships, that the merchants do impute to the Lord High-Admiral, the miscarriages of his officers, which have never been complained of to him without a proper redress.

5. 'As to the Gosport's being taken in her passage to the West Indies in June 1706, with several of her convoys.

'This was an accident that could neither be foreseen nor prevented; and these ships being taken almost 300 miles in the sea, on which occasion, as the queen's officers did all that was possible in the defence of the merchant ships, so it is hoped that their lordships' justice and wisdom, will not make such misfortunes criminal. And as for the particulars of that action, they are contained in the paper marked *B*.

6. 'Another complaint is, That the Lisbon fleet, under convoy of the Warspight and Swiftsure, was attacked in March, 1706-7, and 14 merchant ships taken in the Sour dings.

'This convoy had the misfortune to fall in with 17 ships of the enemies, which were going directly from Brest to the West-Indies, and by the greatest chance imaginable met them in their passage: the particulars whereof are in the paper marked *C*.

7. 'It is farther alledged, that the Newfoundland fleet was attacked in April, under convoy of the Falkland and Medway prize.

'Those two ships did in their passage out of the Channel, meet with eight sail of the enemy's privateers from 30 to 20 guns, with which they engaged, but carried all their convoys safe to Newfoundland, except two that made sail from them, and by that means fell into the enemy's hands.

8. 'It is alledged, that a coasting convoy was attacked in April off the Land's End.

'This may be true, though this is the first advice of it.

9. 'Another complaint there is, that the Hampton-court, Royal Oak, and Grafton, sailing from the Downs, the first of May last, were the next day attacked, and the Hampton-court and Grafton, and about 20 merchant ships taken by the Dunkirk squadron. Otherwise than that, they were in the Flemish-road, notwithstanding what is sworn by Mr. Dawson, that he was told at the Admiralty-office, the said squadron was gone westward; for, upon the strictest examination of all the advices, and of the minutes of the office of that very

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day, there does not appear any notice of the enemy's ships being sailed to the westward: wherefore those three ships, which were one of 76 guns, and the other two of 73 guns each, were judged a sufficient convoy between the Downs and Spithead, nor were there any ships within reach to have strengthened them.

10. 'It is also alledged, that the Russia ships outward-bound the last year, were attacked by the enemy, and 16 of the merchant ships taken.

'As to this matter, their lordships are desired to be referred to a paper marked *D.* by which their lordships will find a particular account of that affair, from the time that the merchants did first apply for the convoy; and that sir William Whetstone, with the squadron under his command, did conduct them to the latitude of 63 degrees, and that then leaving them to their proper convoy, none of the merchant ships did fall into the enemy's hands, but those whose masters did actually leave the said convoy, and that not till they were in the latitude of 70 degrees, about three weeks after sir William Whetstone parted with them.

11. 'Complaint is also made, that the convoy was attacked the 10th of October last, which was conducting the ships with horses for the king of Portugal, and the trade to Lisbon.

'This convoy was her majesty's ships the Cumberland, Devonshire, Royal Oak, Ruby and Chester, which were two of 80 guns, one of 76, and two of 50 guns each, which were thought to be a sufficient convoy to Lisbon in the opinion of the merchants, till the misfortune happened by the accidental junction of two French squadrons: but on this occasion the queen's ships behaved themselves so well, that very few of the merchant ships were taken, and their lordships will find a particular account of this affair in the paper marked *E.*

12. 'The merchants also complain, that they waited long for convoys, and of the prejudice they received, when they returned from foreign parts, for want of convoys to the river Thames.

'This head being general, their lordships are desired to be referred to what hath been already said on this subject in the beginning of this paper.

13. 'They farther alledge, that they had orders in July 1704, to buy great quantities of corn for the king of Portugal's use, and that in July and August they did the same; but that notwithstanding the frequent applications, they could not obtain convoys till the 6th of February following.

'This seems to be somewhat extraordinary: for they say, their ships were ready to sail in July and August; whereas the latter of those two months, there were orders given to her majesty's ships the Pembroke, Canterbury, Greenwich and Gloucester, to convoy the trade to Lisbon; and on the 6th of September, sir William Whetstone was ordered, with the squadron under his command, to see them an 100 leagues South South West from Scilly, which he did; and why the ships that were ready in July and August (as is alledged) did not proceed with this convoy, their masters, or the owners of them, or both can give the best account: besides there were several ships of the States general, when called at Spithead in their way to Lisbon, and (as it had been concerted at the Hague) took our merchant ships under their convoy. And here it may be observed, that although it had been found impossible to furnish convoys for the trade to Portugal, at the immediate times the merchants have applied for the same: yet there hath been 29 convoys between England and that kingdom, from the month of April, 1703, to October last, and some of those convoys no less than great part of the fleet, and at other times considerable squadrons: and particularly in the year 1706, there were five convoys in one year, which makes it very improbable, that the king of Portugal's magazines and armies have been furnished with corn from the Baltic.

14. 'They farther complain, that the grand fleet sailed the 10th of August from Portsmouth, and did not take any merchant ships under their convoy.

'This was the year 1706, when the admiral of the fleet had instructions to proceed upon services, not fit to be made public, which did consequently render it impracticable for him to take merchant ships in his company.

15. 'Another Objection they make, that there was an embargo laid on their trade and convoys.

'It is presumed, that by the word Embargo, they mean, that there was some little stop put to their proceedings, until there could be a more certain account of the intelligence received, that there was a squadron of the enemy's ships in the Soundings, which proved afterwards (as they observed) to be Dutch homeward-bound merchant ships from the West-Indies.

'It cannot be imagined, that this caution was designed for their prejudice, but rather entirely for their service, as well as for the safety of her majesty's ships; and as they own that the Norfolk, Warspight and Exeter did sail with their trade, so do they alledge, that the Nassau did not join them for want of necessary orders, for the fleet did not sail till three in the afternoon, and the Nassau came to Spithead before night; whereas, on the contrary, the Nassau passed through the Downs the 14th of October, 1706, and got as far westward as Folkston, but the wind coming to the south-west, and there being a likelihood of dirty weather, she bore up for the Downs the 16th, from whence she sailed the 18th at six at night, and arrived at Spithead the 20th, which was two days after the convoy sailed: and their lordships may please to take notice, that a Dutch convoy sailed the beginning of January, 1705-6, in company of her majesty's ships; that the 25th of February, capt. Price sailed with five ships of war; that the 27th of March

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following, sir George Byng sailed thither with a squadron; that the 18th of June, four other ships of war sailed thither; and that in July the merchants petitioned for a convoy to go in August, which was appointed; and the reason of their being stopped; and an account of the whole affair, their lordships will be informed of by the paper marked *F.*

16 'They farther declare, that, by reason of the insufficiency of this convoy, several merchant ships were taken out of the fleet off of Portland, and that afterwards, meeting with bad weather in the Bay of Biscay, the Warspight and Exeter came back disabled, and that the trade, except some few ships, proceeded to Lisbon with the Norfolk only.

'The convoy appointed for the trade, were three ships, one of 80, one of 70, and one of 60 guns: and as this was thought a sufficient strength, so were there not at that time any more ships to reinforce them; nor could it be foreseen, that two of the ships would have been disabled in their passage, though accidents of that kind have, and frequently may happen.

17. 'Another subject of their complaint is, That great numbers of merchant ships were in Portsmouth harbour in the month of December, 1706, and detained there for want of Convoy to the Downs, till the 23d of April following; and this, notwithstanding several of her majesty's ships were at Spithead, which they have enumerated, and that others came from the west, and did not call for them; and they particularly mention the Suffolk and Bristol.

'All the ships which the merchants suppose lay idle at Portsmouth, during this time, were under orders for particular services, as their lordships may perceive by the paper marked *G.*

18. 'Another Complaint is made, That in the month of October, 1706, Mr. Coward and Mr. Jones let their ships to the commissioners for victualling, on condition that they should go directly to Jamaica; whereas they were carried from the Downs to Portsmouth, thence to Portsmouth, from that port to Ireland, and then to Barbadoes and Antigua.

'It is not doubted, but these ships were taken up by the commissioners for victualling, at so much a month freight; and her majesty finding it necessary for her service to send a governor to her Island of Barbadoes, and some forces which were to be embarked in Ireland with provisions, and other necessaries for the plantations of Nevis and Antigua, there was a necessity of these ships accompanying the convoy which was appointed for that service, in regard there was not any other which was got in readiness for them; and their owners will be paid for the time they have been employed in the service of the public, according to the agreement made with them.

19. 'Mr. Palmer deposes, That in the year 1705, a ship, of which he was part-owner, with several others, were convoyed from the Downs to Portsmouth by the Litchfield prize, but that, for want of orders, she could not see them to Plymouth, where they might have joined the fleet with sir Cloudesley Shovel, bound to Lisbon.

'Their lordships may perceive how much this person hath forgot himself, and imposed on them. For the Litchfield prize did not arrive with the trade at Spithead until the 7th of June; and sir Cloudesley Shovel sailed from thence the 23d of May, passed by Plymouth the 25th of the said month, and was off of Lisbon the 9th of June; so that the fleet was actually at Lisbon two days after the time that this gentleman says the Litchfield prize might have joined them at Plymouth.

20. 'As a farther evidence, the merchants have produced to their lordships' the Gazette of the 8th of May, 1707, wherein there is the following paragraph from Ostend, viz. "A fleet of merchant ships which lay 5 months in the Downs, consisting of 55 sail, arrived at Ostend this evening, to the great satisfaction of this place."

'This advertisement was very ignorantly and unadvisedly inserted in the Gazette, the fact itself being entirely wrong; For her majesty's ships, the Lyon and Deal-Castle, sailed to Ostend the 7th of February, and there were then no more than five merchant ships to accompany them; and sir Edward Whitaker, with his squadron, did the like the 17th of April following, and saw the trade into that port, and brought what was there from thence; but he carried with him not above 15 ships and vessels; and how that number could swell to 55 is somewhat strange; Besides, it doth not appear, that at any one time, from December to the month of May, there were more than five merchant ships in the Downs bound to Ostend, and above three fourths of that time not so much as one; and yet the advertisement in the Gazette says, That the 55 ships arrived at Ostend from the Downs, and that they had lain there five months for a convoy.

21. 'As to the general article relating to the untimely and unseasonable proceeding of convoys, especially to the West Indies, their lordships are desired to be referred to what hath been already said at the beginning of this paper, relating to that matter.

22. 'The Virginia merchants alledge, That in October, 1705, some of their ships sailed from hence, under convoy of the Woolwich and Advice, which were ordered to stay till reinforced from England; and that they were promised, the Greenwich and Hazardous should sail the first fair wind in January following; but that they did not sail till May, which occasioned their not reaching Virginia till August.

'The Greenwich and Hazardous were ordered for this service the 26th of February, 1705-6, but could not get clear from Plymouth till the 24th of April, and on the 27th they were forced by bad weather into Falmouth; but the Hazardous sailed soon after; for the Greenwich was disabled, and forced to come to Plymouth to refit: However, the said ship, Greenwich, sailed from Plymouth the 1st of June, and arriv d at Virginia the 11th of Au-

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gust; and the 17th of September came from thence with the Hazardous, Woolwich, and Advice, and 182 merchant ships, and arrived with them in the Channel in November following.

23. 'The said Virginia Merchants have farther represented, That, in hopes of convoys proceeding from hence to Virginia, the last Spring, many ships that carried stores from hence to Lisbon, and others from London, proceeded to Virginia, but remained there till September last, expecting convoy, and must now come home without, in the winter-season. And, although the last Spring her majesty, in council, ordered a convoy to be ready in August, yet the said convoy remains at Portsmouth.

'The delays and misfortunes which have happened this year to the Virginia traders, are, in a great measure, to be attributed to the different interests and opinions of the merchants and planters concerned in that trade, to the frequent westerly winds, which have hindered their departure, and to the delays occasioned by several merchants letting their ships to the Portugal convoy, for transporting horses to Lisbon; which will be more particularly explained to their lordships by the paper marked *H*.

24. 'They farther declare, That, for some years past, there hath not been a frigate appointed to take care of the Virginia coast; for want of which, many ships have been taken going in, and coming out.

'The men of war which convoy the Virginia ships have usually orders to cruise between the capes, while the trade is loading: the Strombolo had those particular orders; and the Gosport, which was taken in her passage, (and which may occasion this complaint) had the same; and the Garland is now upon that service; and the ships going to Virginia have the same directions.

25. 'Complaint is made by Mr. John Wood, of the difficulties he met with in September, 1706, and some time after, in getting a ship of his, called, the Union frigate, to Portsmouth.

'This ship took in her loading of corn at Shoreham, one of the most difficult ports along the coast to get out from: But when the ships of war are ordered, either eastward from Portsmouth, or westward from the Downs, they have always directions to call at the several ports in their way; and several have been unsuccessfully appointed, to get the ships and vessels out of this harbour.

26. 'The said Wood does also affirm, That in the months of April, May, and June last, he had several ships freighted with corn at Shoreham, which could not proceed to Spithead, by reason of the enemy's privateers: that at last there was a convoy appointed, but soon after ran away, and left the ships, upon a report that the Dunkirk squadron was upon the coast.

'The convoy here meant, was the Charles galley and Gosport, though several others were before appointed to get those vessels out of the harbour, however, the aforesaid two ships did do it about the 19th of June, 1707, and being on their way towards Spithead, they received an express from the mayor of Hastings, with an account, that there were 18 sail of French men of war coming from the eastward, with all the sail they could make; which advice, although it proved false, was not safely to be neglected: but so far were her majesty's ships from running from the trade, upon this intelligence, (as is falsly and maliciously insinuated) that they kept them company, and brought them safe to Spithead, as the captain of the Charles galley gave an account, in his letter of the 20th of June, 1707; and those ships which occasioned the alarm, were her majesty's ships the Defiance and Advice, with their convoys, from the Downs.

27. 'Mr. Winter deposes, That he came from Gibraltar the 14th of March last, in company of the Pearl, Hanover and Lodington galleys; and off of Beachey-Head, two of them were taken by French privateers.

'These ships were all runners, (or, at least, called so) and had they put into Portsmouth, until an opportunity of convoy had presented, the person who complains of these losses, would not have run the hazard he did. Nor, can it be thought, that these ships, which the merchants call galleys, can, when they are laden and foul, sail much better than other ships, not under that denomination; and therefore are consequently as much subject to misfortunes, by going without convoy; and, it is, very reasonable to believe, that till this trading by galleys or runners grew so much in fashion the losses were much less; and so, it is to be hoped, will be again, when the merchants will learn to alter their way of trading, as the enemy hath altered their method of carrying on the war by sea.

'The remaining part of their lordships' Report, relates chiefly to (viz.) 1. Our merchant ships being chased off of Beachey, and the parts thereabouts, by the enemy's privateers. 2. The advantages to the Mediterranean trade by carrying it on with galleys; but the hazards they run in their return home, for want of cruisers in the Soundings and Channel. 3. A French privateer's chasing a Dutch ship into Plymouth, on, or about the 14th of November last, whilst three Welch convoys rid fast for want of orders. 4. That the list of 1146 sail of merchants ships lost, was far short of the real number. 5. The inconveniences by impressing men in the West-Indies, and at their return. 6. The complaint of Mr. Benjamin Way, That the captain of the Northumberland did not take care of his ship, called the London galley, which sailed from Jamaica the latter end of February last.

'As to the 1st. 2nd, and 5th of these Articles, their lordships are desired to be referred to what hath been already said.

'Then, as to the third, which relates to the chasing of a Dutch dogger, it seems not all

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material, only to swell a complaint; but, as to what is insinuated, that the three men of war did not stir, for want of orders; it is well known, that when her majesty's ships get sight of an enemy, they stand in need of no particular orders to attack them: for their general instructions, annexed to their commissions, do sufficiently require that of them: but this happening at five a clock in the evening, in the month of November, it was impossible for any of the three ships aforementioned, to have come up with the privateer; and the Dutch ship was secure under the guns of the fortification.

'The Lord High Admiral cannot, without great concern, take notice of the list of 1146 ships, said to be lost during this war: although it is possible great part of that number consists of galleys and runners: that some part of this loss may be attributed to the inevitable fate of war; and some hath arisen from the wilfulness or negligence of masters of merchants ships who, when sufficient convoys have been granted them, have deserted that protection, and exposed themselves a prey to the enemy, of which frequent complaints have been made.

'Lastly, As to the sixth Article, which is the complaint of Mr. Way, That care was not taken of his ship from the West-Indies, their lordships are desired to be referred to the copies of two letters herewith transmited to them, marked *L.* and *K.* the one from sir John Jennings, and the other from the captain of the Northumberland: the which give a particular account of that matter, which was not complained of at the Admiralty-Office, before it was brought to their lordships.

'Thus much being said to the report of the Lords Committees, grounded upon the depositions of the merchants, which are partly what they say of their own knowledge, and the rest, what they have gathered from others; the Lord High-Admiral thinks it necessary to lay before their lordships some farther observations, under the following heads, to explain some papers which have been demanded by their lordships from the admiralty office.

1. 'That notwithstanding almost the continual use of her majesty's ships, the loss sustained by storms, (particularly in the violent tempest in the year 1703,) and the many hazards they have been exposed to in this expensive war, the number of ships of the royal navy, is so far from being diminished since her majesty's accession to the throne, that it is increased by ten ships of war, although the parliament hath not in this reign, given one farthing of money for building of ships; and that the last war there was about four millions given for that, and other extraordinary services; and yet the royal navy was less in strength at the end thereof, than at the beginning, by twenty ships of the line of battle.

2. 'That the number of ships of the navy of France, which have been taken or destroyed by her majesty's ships this war, does much exceed our losses, as will plainly appear by the two papers marked *L.* and *M.* wherein there is no mention made of the French ships, which have been taken or destroyed by the ships of the States-general.

3. 'That during the present war, there hath been 175 of the enemy's privateers taken, and many of them of considerable force.

4. 'That in the last war, which was declared the 7th of May, 1689, and ended the 10th of September, 1697, the whole number of the enemy's ships taken and condemned was 1296; whereas in the present war, which was declared the 4th of May, 1702, unto the first of December 1707, the number of ships taken from the enemy, and condemned, is 1346, which carries with it no little disproportion.

5. 'That the re-captures by her majesty's ships of war, from the 4th of May, 1702, to the 1st of December 1707, are 128, which amounted by appraisement, to above the sum of 82,975*l.* and the re-captures by privateers within that time, 38,054*l.* both which sums amounts unto 121,030*l.* exclusive of customs.

6. 'That in the last war, the trading part of the nation had the misfortune to lose near 4,000 ships; whereas in this war, themselves have given an account but of 1146, and it were to be wished, that even that loss could have been prevented. But here it may be observed, that, during the last war, we had the ports of Spain as well as those in the Spanish West-Indies, always open to secure our merchant ships and vessels, not only from the enemy, but from bad weather: Whereas, during the whole course of this war, our trade hath been entirely debarred from that so essential a countenance and protection.

7. 'Besides, whilst her majesty has yearly fitted her royal navy for carrying on the war abroad, the enemy hath, ever since the battle off of Malaga, totally altered their methods of carrying on their naval war: And instead of sending forth great fleets, they fill the seas with privateers, and with squadrons of their nimble ships, and by that means watch all opportunities of seizing upon our trade, for which the situation of their ports gives them but too good opportunities; and yet our merchants (who cannot but be sensible of this danger) carry on their trade in a very great degree, in defenceless ships called runners; and they being obliged by charter-party to go without convoys, are thereby but too often exposed to the enemy, who lie in wait for them.

Lastly, 'The Lord High Admiral desires their lordships to do him so much justice, as to believe, that no man is more sensibly affected than he is, with the great losses and misfortunes which have happened to the merchants; and he is so much the more sensible of them, because, in the way those gentlemen carry on their trades by single, defenceless ships, and by the method the enemy now takes, whilst the French king himself, and so great a part of his subjects, employ so many ships and men only to make war upon the merchants, such misfortunes will still happen; yet his royal highness

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does hope their lordships will believe, that the queen's fleet has not been useless and unemployed during this war; which cannot be carried on, agreeable to the declared sense of their lordships, but by supporting a superiority at sea, upon the coasts of Portugal, Spain, and Italy; in all which places the queen's fleet hath done great services the last four years, and attempted some things which might have secured Britain for one age, from all the naval power of France.

"The House took this Answer into their "most serious consideration, and finding seve- "ral facts stated therein very differently from "what had been asserted by the merchants, "upon their oaths, (who had therefore, accord- "ing to the methods of justice, a right to be "farther heard by way of reply) and finding "several other things alledged in the Answer, "which at first light seemed to be plain mis- "takes, we thought it necessary, for our fuller "information and satisfaction, to appoint a "Committee to hear the merchants, and also "to make such observations upon the Answer, "as they should think proper.

"The Committee having perfected their Re- "port, and laid it before the House, the same "was agreed to, and we think ourselves obliged "humbly to present this second Report to your "majesty:

Second REPORT of the Lords Committees, 17 Feb. 1707-8.

'In relation to the first Head of the Answer, which is conceived in general terms, without being applied to any of the particulars in the merchants complaints, some things seem proper to be taken notice of.

1st. 'The Answer says, That all the instances mentioned in the Report, are in the latter years of her majesty's reign.

'The Lords Committees observe, That an Address of the House of Lords, presented to her majesty in the year 1704, did lay before her the heavy losses of the merchants, which had happened for want of cruisers and convoys for the home trade. Soon after the presenting of that Address, sir George Byng and sir John Jennings were sent out to cruise, and continued cruizing till the October following, during which time the English ships were well protected, and many of the enemy's privateers taken; and the Lords hoped there would have been no farther occasion of complaints from the merchants: And all the losses contained in the Report, now before the House, have happened since that care was laid aside.

2dly. 'It does appear by the papers sent to the House from the Lord High-Admiral. That in the year 1706, the highest complement of the ships employed in the Mediterranean (supposing them manned to that complement) did not exceed 17,373 men; and in the year 1707, the highest complement of the ships employed there did amount only to 15,590 men. And therefore notwithstanding that part of the fleet which was made use of there, in both those years, yet about 23,000 men of the numbers provided for by parliament, remained for the necessary service of guarding and protecting the coast and trade; so that it seems not possible, that the keeping those squadrons in the Mediterranean, could be the occasion of the cruisers and convoys being so weak and few, and the coast so ill guarded.

3dly. 'The strength of convoys is to be proportioned to the present circumstances of the enemy, as far as intelligence can be had, and the many instances mentioned by the merchants of convoys attacked to our disadvantages, shew by experience, that most of our convoys have been too weak.

'The second Head of the Answer is also general, but the Lords Committees observe, That the great ships are the strength of the line of battle, and if more first and second rates had been employed in the Mediterranean, instead of so many third and fourth rates, and smaller ships, a much greater number of ships proper for convoys and cruisers, for the protection of trade in the Channel and Soundings, would have remained free for those services; or if there was found to be a real want of such ships, timely and proper application might have been made to the parliament, who have ever been forward in providing for the security of trade. And, in the mean time, ships might have been hired, as has been often done, rather than the whole coast should continue in a manner besieged by the enemy's men of war and privateers, without interruption.

2. 'The want of seamen is too well known, which proceeds principally from the many hardships they suffer. The constant practice now in use in turning over, or removing them from ship to ship, is of all others the greatest discouragement, and though the paying them at the same time they are turned over, may have a fair appearance, yet that being generally done when they are abroad, it tempts the seamen to extravagant expences, and proves in conclusion the utter ruin of their families.

3. 'Many of the inconveniencies mentioned in this paragraph of the Answer, could hardly ever happen in case an early distribution was made of proper ships for convoys, and the time of their departure fixed; whereas very frequently ships are appointed when they are at sea, and it is unknown in what condition they will return. The merchants say, That this year one of the convoys named for the Jamaica trade, was at that time in the Sound.

'The Answer says, The queen's ships have as often stayed for the merchants, as they for their convoys; of which one instance is given in the paper marked *A*. The fact may be so sometimes; but the case mentioned in the paper is not of that sort; for there the merchants ships were lying in the Downs, together with the Assistance and Dunkirk prize, two of the ships of capt. Kerr's squadron, and were ready to sail, and did sail with them to Spithead, where the rest of the squadron lay. And, though it be asserted, that Mr. Kerr's ships were ready the 13th of Februrary, at Spithead, yet it ap-

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pears, that his instructions do not bear date till the 3d of March, 1706-7.

'As to the third Head, relating to the Want of Cruisers, the Lords Committees observed, That it is not the appointing cruisers yearly, which will protect trade, but the careful and strict observation, that the ships appointed for that purpose do cruise accordingly.

'Whereas it appears in the account of the disposition of the fleet, laid before the House of Lords, That no ship was cruising in the Soundings and Channel, in the months of June, July, August and September last, in which almost all the galleys and homeward-bound ships, whose loss was so heavily complained of by the merchants, were taken and destroyed:

'In relation to the arbitrary proceedings of the captains of the queen's ships of war, in impressing seamen out of the merchant ships in the West-Indies, as also upon their return to the ports of Great Britain, the fourth paragraph of the Answer says, if any such thing has been done, it is contrary to orders, and has never been complained of without a proper redress. Upon reading this passage, the Lords Committees summoned Mr. Coward (to whose complaint principally that part of the Answer related) who attending, and being examined as to the matter of fact, made oath, that he had often complained to the Prince's council of these great hardships, and begged relief from them, before he applied to the House of Lords; that he could mention many other instances of the ill usages he had suffered in the same kind. That year after year, from the beginning of the war, not one of his ships had escaped, having men pressed out of them both at Jamaica, and upon their return (if there then was a press) except such as had run through all danger into the Downs and so got to London. In particular he swore, that he had complained to the Prince's council, of capt. Johnson's impressing his men out of the Somerset frigate, and capt. Roche's impressing his men out of the Walthamstow galley, as also of taking away his men out of the Gold frigate, and produced to the Prince's council the evidence he had of these several facts, but could not learn, that any of the captains were punished or censured or so much as once called to an account for their violences. He also swore, that all the captains he had employed to the West Indies have declared to him, that they who impressed his men at Jamaica, never shewed any authority or consent from the governor for so doing; and he affirmed, he was ready to produce many captains, who would swear the same thing. He said, if such orders are given as is asserted in the Answer, the Prince's council well know, by the frequent complaints of him and others, they are not observed either at Jamaica, or at home.

'In the sixth Paragraph of the Answer, which relates to the loss of the Lisbon fleet, under the convoy of the Swiftsure and Warspight, it is stated in this manner: 'This convoy had the misfortune to fall in with 17 ships of the enemy's which were going directly from Brest to the West Indies, and by the greatest chance imaginable met them in their passage.' And in the paper marked C. (to which the paragraph refers) after reciting an account given by the captain of the Swiftsure of this action, and that most of the merchant ships escaped, the paper C. proceeds thus: 'That as there was not any previous notice of this squadron of the enemy's ships, so if greater strength had been added to this convoy (which was not then to be had) it would have been but of little advantage against such a number of the enemy's ships.' This seems so strange a representation of this affair, that it is necessary to lay before the House, the true matter of the fact, as it appears upon a careful examination of it by the Lords Committees.

'First, As to the assertion; that there was no previous notice of this squadron of the enemy.

'The Lords Committees refer to the advices concerning the French shipping sent to the Admiralty from the secretary of state the last year, (which advices are now lying before the House) particularly to an extract of a letter from Mr. Secretary Harley's office, dated at Rotterdam the 7th of February, N. S. and sent to M. Burchett the 1st of February, O. S. giving an account of the squadron of ships then lying at Brest, and another from the earl of Sunderland's office, dated at Paris the 4th of February, N. S. and sent to Mr. Burchett the same 1st of February, O. S. As also to another letter from Brest of the 3d of February, N. S. sent from the earl of Sunderland's office, to the Admiralty the 14th of February, O. S. giving a particular account of the same squadron, and the strength of it, and that it was ready to sail, and to another dated at Brest of the 14th of February, N. S. sent from Mr. Secretary Harley to the Prince's council the 24th of Feb. O. S. to the same effect.

'Secondly, As to the assertion, that there was then no greater strength to be had, it is to be observed, that a Dutch fleet of nine men of war, under the command of admiral Vandergoes, had laid for some time at Portsmouth, and sailed from thence the very same day that captain Griffiths, who commanded this convoy, sailed in the Swiftsure from the same place.

'If orders had been given to captain Griffiths to have kept company with the Dutch squadron, there had been a sufficient strength to have saved all the ships under his convoy. But it appeared, by the examination of Mr. Jacob Hanckell, Mr. William Wood, captain Francis Cook, and captain Edward Smith, two masters of the merchant ships which went under his convoy, and also by a letter of captain John Hunt, another master, dated from Dinant, where he was then a prisoner, that captain Griffiths was guilty of divers most unaccountable delays off of Plymouth, and thereby lost the advantage of keeping the Dutch fleet company.

'On the 23rd of February, captain Griffiths made a signal of seeing seven ships, and after-

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wards seeing seventeen; but, instead of making the best of his way from them, he lay by with an easy sail (not suffering any of the merchants to go a-head of him) till those ships came within gun-shot, (although he could not but discern them not to be English ships long before, and if they had been English, he had no occasion to speak with them.) When those ships were come so near, they put out French colours; and thereupon the two men of war, the Swiftsure and Warspight, made all the sail away possibly they could, leaving the merchants ships, and ships with provisions for Spain and Portugal, which captain Griffiths had under his care, to shift for themselves, and of 18 merchant ships that were in the company, 13 were taken, so that most of them did not escape, as is asserted in the Answer.

'It was also proved, that these French ships were cruising, and not going directly to the West Indies, as the Answer asserts, and that they kept cruising all together about nine days after this action, and then sent their prizes with five of their men of war into Brest, and the rest of the men of war continued cruising about 14 days longer, and then they also returned to Brest.

'It was farther proved, that the letter wrote from Dinant by captain John Hunt, complaining of captain Griffiths's behaviour, was by sir Edmund Harrison and Mr. Henckell laid before the Prince's council, who told them, they had been informed of the matter before, and were sending directions to Lisbon to have captain Griffiths tried; to which sir Edmund Harrison then objected, that such a trial must signify very little, since no evidence could be had against him at that place.

'Notwithstanding, there was an order sent in April last, for trying captain Griffiths at Lisbon, at a court-martial. The Lords Committees having desired to know what was done upon that order, have been since informed by a paper dated from the Admiralty Office to this effect, that he was tried accordingly; and it is presumed he was acquitted, because he was continued in his command: But the result of the court martial is not sent to that Office; and he who acted as Judge Advocate at the trial is since drowned. The same paper goes on to say, that the trial was at the desire of the merchants, because there was no evidence against him at home. Whereas it is observed before, that sir Edmund Harrison told the Prince's council, there would be no evidence against him if he were tried at Lisbon.

'The ninth paragraph of the Answer relates to the loss of the Hampton-Court and Grafton men of war, which, together with the Royal Oak, and the merchant ships under their convoy, sailed from the Downs the first of May last.

'The Answer affirms, that, notwithstanding what Mr. Dawson swore before the Lords, that he was told at the Admiralty Office, the 29th of April last, that the Dunkirk squadron was gone westward; yet there was no notice at that time of the Dunkirk squadron, otherwise than that they were in the Flemish Road: Wherefore the three men of war, one of 76, and the other two each of 70 guns, were judged a sufficient convoy from the Downs to Spithead. Mr. Dawson being ordered to attend the Lords, and acquainted with what was charged upon him, did again affirm upon oath, that the governor and committee of the Muscovia company, of which he was one, attended the Prince's council on Tuesday the 29th of April last, to know what convoy was appointed for that trade; and, being told by the Prince's council, that one fourth and two fifth rates would be their convoy, the governor and committee represented their fears of danger from the Dunkirk squadron; but were then told from the board, they need be under no apprehension on that score, for the Dunkirk squadron was gone to the westward. He also mentioned many circumstances, which made him so very positive as to the time; and observed, that if the committee had been told at the board, that the Dunkirk squadron was then in the Flemish Road, it was so far from being an argument to persuade them to acquiesce with so small a convoy, that it must have increased their fears, that station being equally proper for the squadron to sail, either to the northward or westward.

'Sir Benjamin Ayloff, governor of the Muscovia company, and five of the committee of the same company, viz. Mr. Randolph Knipe, Mr. Henry Phill, Mr. Josiah Wadsworth, Mr. Thomas Stiles and Mr. Samuel Heathcote, did also severally depose, that they did attend the Prince's council the 29th day of April last, and then were told from the board, that the three ships designed for them were sufficient for their security, because the Dunkirk squadron was gone westward, and four of them, viz. Sir Benjamin Ayloff, Mr. Wadsworth, Mr Styles, and Mr. Phill, swore, they believed admiral Churchill was the person that told them so, but, as to that particular, they were not so positive.

'This matter of fact being directly proved by so many persons of unquestionable credit, the Lords Committees think, that, by the reasoning used in the Answer, the Prince's council could not judge the three men of war a sufficient convoy, and consequently ought to have suffered them to sail westward on the first of May; especially considering that from time to time notice had been sent to the Admiralty Office, from both the secretaries of state, of the strength of the Dunkirk squadron; and when it is so fully proved, that they owned, that they had notice that the squadron was gone westward.

'The tenth Paragraph of the Answer relates to the complaint of the merchants, touching the Russia ships.

'The instructions to sir William Whetstone, of the 10th of June last, take notice, that the Dunkirk squadron was gone northward, and that there was reason to believe they were designed for the coast of Norway; and that they would look out for, and endeavour to intercept

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the fleet bound to Russia for naval stores; which made it absolutely necessary, that the convoys to that trade should be strengthened; and he is thereby directed to proceed with all the merchant ships under his convoy, as far as the northernmost part of the Isle of Shetland, and there to leave them to prosecute their voyage with their proper convoy.

'The Lords make this Observation, that after such intelligence, it appears very reasonable, that sir William Whetstone's orders should have been to see a fleet of such consequence out of danger, before he left them.

'The Lords' Committees do think it necessary to inform the House, that captain Nenyon Masters, commander of the ship Nenyon and Benjamin, made oath, that on or about the 9th day of July last, his ship, together with about eleven or more English ships, were unfortunately taken in their voyage to Archangel, by the chevalier Fourbin's squadron, consisting of seven French ships of war: That his ship was the first taken, and he was immediately carried on board Monsieur Fourbin, who demanded of him what number of convoys the English fleet bound for Archangel had with them. He answered, Twelve sail: To which Fourbin replied, he spake what was false, for there were only three ships of war convoy to the English fleet; Fourbin then declaring, that he knew admiral Whetstone, with his squadron, came with the fleet no farther than the Isle of Shetland, and then returned back again.

'As to the eleventh Head of the Answer, respecting the merchants complaint of the weakness of the convoy sent for conducting the king of Portugal's horses and the trade to Lisbon, the Lords Committees do only make this observation, that the fleet having lain at Spithead for many months, whereby the enemy had an opportunity of knowing the value and consequence of it, and notice being taken in the orders to captain Edwards, of the 7th of September, 1707, of a squadron of the enemy's ships cruising betwixt Scilly and Ushant, and notice being also taken in the orders of the 6th of October to sir John Leake, that Monsieur Fourbin was sailed from Brest with several ships, and was to be joined with others, it seems very unaccountable, that at last such a fleet should be suffered to sail without a greater strength.

'The 13th, 14th, 15th, and 16th paragraphs of the Answer, relating principally to the former deposition of Mr. Jacob Henckell, the Lords Committees ordered him to attend again; and he was further examined in relation to the facts mentioned in the Answer. He desired to observe, that the 13th paragraph made him say what was not in his deposition; for he did not say, the corn ships were ready to sail in July and August, but, that a great quantity of corn was bought in those months.

'If any thing was concerted at the Hague, that the ships of the States-general should call at Spithead, to take our merchant ships under their convoy, it was strange no notice should be given of so good an agreement, that so the merchants might have disposed their affairs for taking the benefit of it, especially when he and other corn merchants very frequently applied to the Prince's council, to know when they might expect a convoy.

'As to what is said of the great number of convoys which have gone between England and Portugal since April, 1703. Whereas the Dutch have seldom sent above one convoy in a year, and the inference made from thence, that therefore it is not probable the king of Portugal's magazines and armies should be furnished from Holland.

'Mr. Henckell still affirmed the fact to be so as he had formerly sworn, and that, at the very time of his examination, the Portuguese have great quantities of corn shipped in Holland; and though the Dutch have not sent so many convoys as have gone from England, yet they go at certain and proper times, by reason whereof their corn arrives in a good condition; whereas the unaccountable delays and uncertainties of the English convoys have been the occasion of great losses to our merchants, and great disappointments to the Portuguese. He also took notice, that of the many convoys enumerated in the Answer, several of them were fleets or squadrons of men of war, of which the merchants had no notice, nor were allowed to have any benefit, as appeared by the 14th Head of the Answer, relating to the fleet that sailed with sir Cloudsley Shovel.

'In the 14th Head of the Answer, much weight seems to be laid upon this, that the Nassau did not arrive at Spithead till the 20th of October, whereas Mr. Henckell, in his complaint, had sworn the Nassau came to Spithead the 18th at night, the same day the convoy sailed from thence. To clear himself, Mr. Henckell produced two original letters signed by Cornelius Collier, his captain, written from Portsmouth, the one dated the 19th of October, which says, the Nassau came too late for the convoy, but was at that time at Spithead; and the other dated the 25th, which says expressly, the Nassau came to St. Helens the same night the Lisbon fleet sailed. Mr. Henckell affirmed also, that he had other advices which fully verified what he had said in his former deposition, as to the Nassau's arriving the 18th at Spithead.

'Mr. Henckell farther said, that the convoy mentioned in that paragraph of the Answer, consisting of four ships of war, which is there said to have sailed the 18th of June, does appear by the paper marked *F.* (to which the paragraph refers) to be a convoy that sailed from Portugal that day, and so does not contradict what the merchants had insisted on in their complaint, that there was no convoy for Portugal between March and October, a homeward-bound convoy being mistaken in the Answer for an outward bound convoy, and consequently it was no contradiction to what the merchants had affirmed: and though in the 16th paragraph of the Answer it be asserted, that the three ships appointed for convoy to the

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Portugal fleet, were at that time thought a sufficient convoy, Mr. Heuckell swears, the Prince's council (by the reasoning of the merchants before them) was convinced of the contrary, at the time the convoy was sent, and did then pretend no other reason for their not strengthening it, but want of ships. And he desired to refer particularly to the remonstrance of the 10th of October last, which was delivered at that time by the merchants to the Prince's council, and is now lying before the House; whereby, in very strong terms, they represented their many solicitations without effect, the great delays they had met with, and their great sense of danger, if they should proceed without that convoy, as well as of their certain ruin by any farther delay.

'The 17th Head of the Answer says, that the ships which the merchants supposed lay idle at Portsmouth so long, were under orders for particular services, as appears by the papers marked *G*.

'Upon consideration of this paragraph, and of the paper marked *G*. to which it refers, the matters of fact, whereof the merchants did complain, seem, in effect, to be admitted to be true; and the services for which it is alledged the ships were designed, do not appear so pressing, but that some of them might have been employed to help the merchants in their great extremity.

'As to the 18th Head, which relates to Mr. Coward's complaint of the long detaining of his ships let to freight to the Commissioners of victualling; the Answer says, it is not doubted they were taken up at so much a month freight, and the owners will be paid for the time they have been employed, according to the agreement made with them. Mr. Coward deposed, that his ships were not taken by the month (as the Answer alledged) but the contract was at three pounds a tun, directly for Jamaica, which might have been performed in seven or eight weeks: whereas, by means of the deviations complained of, they have been detained ever since the 15th of November, 1706, and were yet in Ireland at the time of the complaint, whereby the ships are ruined, and he left at mercy, as to any satisfaction.

'The 19th Paragraph of the Answer takes notice, how far Mr. Palmer had forgot himself, and imposed upon the Lords in his deposition, for that the Litchfield prize did not arrive at Portsmouth till the 7th of June; whereas sir Cloudesly Shovel was off of Lisbon the 9th of June; and therefore it was not possible that the Litchfield prize should have joined him at Plymouth.

'Mr. Palmer being examined as to this particular, said, That in this complaint it was alledged, the Litchfield prize came to Spithead the 7th of July, not of June, as it is repeated in the Answer; but he owned his mistake in saying, if the Litchfield prize might have proceeded to Plymouth, the corn-ships might have joined sir Cloudesly Shovel's fleet; whereas he meant to have said, the transport-fleet, which at that time lay at Plymouth bound to Portugal.

'To shew that it was a mere mistake, he produced to the Lords three original letters from Portsmouth, wrote by his master, Richard Riccard, dated the 7th, 12th, and 28th of July, which mention the transport-fleet, which had lain for a considerable while at Plymouth, and (as those letters say) sailed for Portugal about that time.

'The twentieth Paragraph, affirming that the Article in the Gazette of the 8th of May, 1707, which the merchants had produced, was very ignorantly and unadvisedly inserted, the fact being entirely wrong; the Lords Committees thought fit to be informed, how that passage came to be put into the Gazette; and upon examination it appeared, that Mr. Stepney the 12th of May, N. S. wrote a letter from Antwerp to the earl of Sunderland, at the solicitations of some considerable traders there, representing the hardships they lay under for want of a convoy from Ostend, (though it had been promised, and several times notified on the Exchange of London) to their great loss and discouragement, and what was like to have an ill influence on that trade, which was in a way of being better established than ever; and that, afterward, upon the arrival of that fleet at Ostend, Mr. Stepney wrote another letter to the earl of Sunderland, dated the 14th of May, N. S. the very words of which second letter are those transcribed into the Gazette.

'The Complaint of the Merchants, in relation to the Virginia trade, consisted of many particulars; none of which seem to the Lords Committees to be answered or excused, by what is alledged in the 22d, 23d, and 24th paragraphs of the Answer, nor by the paper marked *H*, to which the 23d paragraph does refer.

'The 25th and 26th Paragraphs of the Answer, which relate to the complaint of Mr. John Wood, of the difficulties and delays he met with in getting his vessels, loaden with corn, to Portsmouth, containing nothing in particular, besides one matter of fact, viz. That the Charles galley and the Gosport, the two convoys for the corn-ships to Spithead, were so far from running from the trade (as was falsly and maliciously insinuated by Mr. Wood) that they kept the merchant ships company, and brought them safe to Spithead, as the captain of the Charles galley informed the Prince's council by letter.

'Mr. John Wood being sent for, and charged with this matter, produced two letters, which he made oath were sent to him from Portsmouth, by captain Edward Friend, the master of one of the corn-ships; the first dated the 21st, and the other the 22d of June last, wherein it is expressly affirmed, that, about eight o'clock in the evening, the commander of the convoy sent his boat aboard the merchants, to tell them the news, that the Dunkirk squadron was at sea, and at the same time to let them know that the convoy will take no farther care of them, but would make the best of their way to Portsmouth, and the merchants must shift for themselves.

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'Captain John Falkner, the master of the Mary, another of the ships from Shoreham, made oath, that the commander of the convoy sent his boat aboard the merchants, to tell them, that he had advice of a French squadron, and that they must shift for themselves; for they would take no care of them, but would make the best of their way to Portsmouth, and he swore the convoys were as good as their words, and made away with all the sail they could, and got in thither a considerable time before the merchants, who were in very great danger of being taken, having been chased at least eight hours by a French privateer. The same captain did, upon his oath, confirm what Mr. Wood had before alledged, that for full six months, while he lay at Shoreham, the French privateers did continually cruise on the coast in considerable numbers; but in all that time he could never see or be informed of any man of war cruising to prevent or intercept them.

'As to what is said in the Answer, that the men of war who sail eastward or westward, have always directions to call at several ports in the way; Mr. Wood added to what he had said before, that if they had such orders, it was strange not one of them should ever appear off of that harbour in six months time.

'The 27th Paragraph of the Answer relates to the merchants complaints of the many and great losses of ships off of Beachey, and upon the English coast in their return home.

'What this Paragraph says, is, that these ships were runners, and should have put into Portsmouth till they had an opportunity of convoy; but when the merchants shall leave off trading in these galleys or runners, (which are subject to many misfortunes by going without convoy) it is to be hoped their losses will be less.

'Their lordships cannot think it strange, if the merchants are very unwilling to put into Portsmouth, in hopes of convoy, after the instances given by them of their ships lying there for many months, in vain expectation of men of war to convoy them.

'As to the proposal for the merchants leaving off to trade in galleys, in expectation of convoys: the Lords Committees observe, the use of this kind of vessels was taken up during the late war, and has been continued ever since with very great success till within two years last, during which time there has been, in a manner, a total neglect of having any cruisers in the Channels or Soundings, or any men of war to guard the coasts.

'These ships are built for sailing, and also to row with oars, and carry no more goods than are proper for sailing, and carry twice the number of men to a common sailing ship, and are of force from 16 to 40 guns.—There is no convoy granted to any trade within the Streights but to Turkey only, which is never above once in the year, and must be acknowledged to be too seldom to answer the occasions of the traders to Leghorn, Genoa, Venice, and other places in those seas.—If therefore the use of gallies or single ships be laid down (for if any single ships be used in trading, it will be granted the galleys are better sailors, and have the advantage of any common built ships) and all the Mediterranean trade is to be carried on by convoys, that whole trade will be in a manner lost to England, especially in respect to fish, and other perishable commodities; and would be soon felt in a very heavy manner in all parts of the nation, the great consequence of that trade fully appearing by the merchants proofs set down in the report made upon their petition.—It is necessary for the safety and honour of the kingdom, and of all manner of trade whatsoever, that the Channel and Soundings be well guarded; and if this be done, the traders in galleys own they have no reason to complain.—The enemy have not altered their way of making war by sea: they always endeavoured to infest our trade by their privateers, to as great a degree as they could, but it must be owned, that of late they have had greater success than ever, and the great encouragement they met with, (the sea in effect being laid open to them) it is too probable will soon increase their numbers.

'The merchants do insist, that the List of 1146 ships, given in by them, does not contain all their losses during this war, but, in a manner, such only as have been taken in the Channels and Soundings, within two or three years last past, and principally such as do belong to the Port of London. They have already had an account of 34 ships taken in the Channels and Soundings, since they made their complaint to the House of Lords; of which ships they delivered a list to the Committee, and affirmed, that the loss of those ships, by a modest computation, amounted to above 17,000*l.* They affirmed, that besides those named in that list, several other rich ships are missing, and many of them, they fear, have met with the same fate, the Channel and Soundings being infested with the enemy's men of war and privateers as much as ever. The neutral ships which come into the ports of Britain, declaring, that they have been boarded by them in those places several times in a day.

'The Answer (as to what concerns Mr. Benjamin Way) says expressly that matter was not complained of at the Admiralty office, before it was brought to the Lords.

'This seems very strange, for it appears plainly by the two letters marked *J* and *K*, referred to in the Answer itself and sent therewith to the Lords, that both of them were written upon occasion of a complaint made by Way to the Admiralty, and are only copies of the very same letters which were annexed to Way's complaint to the Lords, and were sent together with the Lords' Report to the Lord High Admiral.—This is what the Lords Committees have humbly to offer to your lordships, in relation to so much of the Answer as concerns the merchants complaints.—The remaining part of it seems intirely foreign to the subject of the report,

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containing only an unnecessary comparison of the management of the naval affairs in this and the late war; since any faults or errors which might have happened at that time, would not lessen the misfortunes of the merchants, or justify any wrong conduct at present. But the Lords Committees think themselves obliged to lay before your lordships, several very plain mistakes which they find in this part of the paper

'In the first Observation it is asserted, that the parliament has not in this reign given one farthing of money for the building of ships; and that in the last war there was about four millions given for that and other extraordinary services, and yet the royal navy was less in strength at the end thereof than at the beginning, by twenty ships of the line of battle.—This is so far from being a right state of the case, that in this observation there appears, at first sight, a mistake of no less than three millions in four, the whole sum given for building of ships in the last war not amounting to one million. This, in effect, was afterwards confessed in a second paper sent from the Admiralty-office, of the 28th of January, 1707, by way of explanation of a former Paper delivered to the Lords Committees from that office.

'In this second Paper, notice is taken of the Numbers and Rates of ships provided for by parliament, and the days are set down when the money was voted for them, but the sums are omitted, which would have too plainly contradicted the assertion, that four millions were granted.

'The true state of that matter will appear by the forementioned second paper, if the sums be added, as the same are set down in the first of those papers from the Admiralty-office, and is as follows. There was given for building ships,

		£.	s.
Oct. 10, 1690,	of 3rd Rate, No 3	83,008	10
Dec. 24, —	of 3rd — — 17	570,000	0
	of 4th — — 10		
Dec. 2, 1692,	of 4th — — 8	79,308	0
Nov. 30, 1694,	of 2nd — — 4	70,000	0
Dec. 6, 1695,	of — — —	138,424	0
— — —	of 3rd — — 4	65,855	19
— — —	of 4th — — 8		
		£. 1,011,576	9

'Memorandum, That the one-third Excise which was given for 570,000*l.* did produce but 342,617*l.* 11*s.* 2½*d.* of which there has been paid for building the 27 ships 453,591*l.* 19*s.* and to other uses 29,025*l.* 12*s.* 2½*d.*

'These were all the sums granted by parliament for building ships during that whole war: the other sums set down in the first paper, which makes the whole amount to 4,579,571*l.* 4*s.* 2½*d.* were either for the ordinary and current service of the Navy, as seamen's wages, victualling, &c. or for such particular uses as had no relation to the building of ships, such as the payment of marine officers, register of seamen, &c.

'The second Mistake in this Observation is, that the Royal Navy, instead of being less at the end of the late war by twenty ships, than it was at the beginning, was increased by 113 ships and vessels, of which 39 were of the line of battle, besides 21 ships which were building on the 30th of December, 1697, whereof 13 were of the line of battle.

'And though in the same Observation it be alledged, that nothing has been given in this reign for building of ships, yet the provision for the navy in general, has been much larger in this war than in the last; for in this reign there has been granted for the use of the navy (including the ordnance for sea-service, and the sums voted for the service of the year 1708) the sum of 15,366,867*l.* 17*s.* 10*d.*

'Whereas all the sums received by the treasurers of the navy, between the 5th of November, 1688, and the 30th of September, 1697, (including the money given for building ships) only amounted to the sum of 15,136,898*l.* 1*s.* 5*d.*

'It may be also observed, that in the year 1698, there were 105 ships of the line of battle in thorough repair; whereas it appears that on the 6th of December, 1707, three first rates, eight second rates, six third rates, and two fourth rates wanted rebuilding or great repairs, which, considering the nature of the ships, makes a great part of the strength of the line of battle.

'The second Observation takes notice, that the number of the ships of the navy of France, taken or destroyed by her majesty's ships this war, does much exceed our losses, as appears by the Papers marked *L* and *M*, where there is no mention of the French ships destroyed by the ships of the States-general.

'The Lords Committees take notice, that by the paper *L*, it appears the greatest number of the enemies ships, and those of the greatest consequence, were taken or destroyed in the harbours of Vigo, Gibraltar, and Ostend; at the two first of which places the ships of the States General assisted. And that during the war, only 25 ships of all sorts have been taken or destroyed by cruising ships at sea, and of that number only five ships from 30 to 60 guns. By the paper marked *M*, it appears that the number of her majesty's ships and vessels taken and destroyed by the enemies, during the present war, are 35, 13 whereof are ships of the line of battle, from 50 to 80 guns.—The sixth Observation is, that, in the last war, the trade of the nation had the misfortune to lose near 4,000 ships.—This appeared so very strange to the Lords Committees, that they sent to the Admiralty-office to be informed, if there were any lists of those ships, or what grounds they had for making that assertion.—The Answer sent in return to this message, was a printed paper, without any name of the author or printer, in which are these words: 'It is generally allowed, that the number of ships and ves-

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sels miscarried since the war, does not fall short of 4,000.—Upon consideration of this Paper, it appeared to be a libel, written as a pretended answer to an account published by authority in the year 1695, of what men of war and privateers had been taken from the French, from the beginning of that war; and, it contains in it not only scandalous reflections upon the parliaments of that reign, but notoriously false representations of matters of fact, which might have easily been known to be so at the Admiralty-office; and therefore it seems very strange, that such a libel should be offered as a proof to the Lords, in an answer which is supposed to come from that office.—But as an evidence that there can be no foundation of truth for this assertion, the Lords Committees offer to your lordships consideration, that the number of English prisoners, who have been returned from France, from the beginning of this war to December last, amounted to 18,011, and there then remained in France 2,000 more; whereas the number of English prisoners returned from France, from the beginning of the late war, until the 24th day of June, 1698, did amount to no more than 15,250. And it is not probable, that the ships taken in former wars should be so many more than those taken in the present (as is pretended) when the prisoners are so remarkably fewer.—To the latter part of this sixth Observation, That during the last war, we had the ports of Spain, as well as those in the Spanish West Indies, open to secure our ships, not only from the enemy, but from bad weather.—The Lords Committees say two things: 1. That till now, they never heard that the ports in the Spanish West Indies were at any time open to secure English men of war or merchant ships. 2. That the many great losses complained of by the merchants, appear to have been in the Channel and Soundings, and consequently the Spanish ports, though open, would have been no very essential countenance and protection to them.

"May it please your Majesty;

"We having thus performed what we take 'ourselves to be indispensibly obliged to, can- 'not doubt but it will be graciously accepted 'by your majesty, as coming from most du- 'tiful subjects, who sincerely wish they may 'never have occasion hereafter of making Ad- 'dresses to your majesty, but to congratulate 'your success, or to return our humble ac- 'knowledgements for the blessings of your 'reign. We beseech your majesty to believe, 'that none of your subjects do exceed us in 'true respect to his royal highness the Lord 'High Admiral: his great personal virtues re- 'quire it, and his near relation to your majesty 'makes it our duty: and as we do not mean 'that any thing in this Address should in the 'least reflect upon him, so we are very well 'assured, his Royal Highness will never suffer 'other persons to protect themselves under his 'name, from a just pursuit of such faults or 'neglects, as immediately tend to the ruin of 'trade, and the destruction of Britain. There 'cannot be a plainer proof, that some persons 'employed by the Lord High Admiral have 'made the worst use imaginable of the trust 'he honours them with, than in their presum- 'ing to lay such an Answer before the House 'of Lords in his name. For (not to take no- 'tice of the many things which in the Second 'Report have been already laid before your ma- 'jesty) throughout the whole Paper, there is 'no hopes given, that for the future, any better 'care shall be taken of the trade; on the con- 'trary, the whole turn of the Answer seems to 'be intended for exposing the complaints of 'the merchants, rather than pitying their losses. 'We are sure nothing can be more remote 'from the goodness and compassion of the 'Lord High Admiral's temper, and the tender 'regard he has always shewn for your majesty's 'subjects.

"May it please your majesty: It is a most 'undoubted maxim, that the honour, security 'and wealth of this kingdom does depend upon 'the protection and encouragement of trade, 'and the improving and right managing the 'naval strength. Other nations, who were 'formerly great and powerful at sea, have by 'negligence and misconduct lost their trade, 'and seen their maritime strength entirely 'ruined. Therefore we do in the most earnest 'manner beseech your majesty, that the sea 'affairs may always be your first and most pe- 'culiar care. We humbly hope that it shall 'be your majesty's chief and constant instruc- 'tion to all, who shall have the honour to be 'employed in your councils, and in the admi- 'nistration of affairs, that they be continually 'intent and watchful in what concerns the 'trade and fleet; and that every one of them 'may be made to know it is his particular 'charge to take care that the seamen be en- 'couraged, the trade protected, discipline re- 'stored, and a new spirit and vigour put into 'the whole administration of the navy."

The Queen's Answer to the Lords' Address.] Her majesty gave this Answer:

"My Lords; I will take care to make the most useful observations on the several particulars contained and referred to in your Address. —It was always my opinion, that the encouragement of trade and seamen, and the good management of the navy, are of the greatest importance to the prosperity of this kingdom.—And therefore you may be assured, I will use my utmost endeavours to encourage all those whose duty it is, effectually to perform those services."*

* "On the 11th of February there happened an important change in the administration in England, for Mr. Henry Boyle, uncle to the earl of Burlington, and Chancellor of the Exchequer, was made secretary of state, in the room of Mr. Harley. Probably the affair of Gregg, Valiere, and Bara, which in some measure affected Mr. Harley's credit, made him more earnest to bring about a change in the conduct of affairs, in which he relied on the

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The Commons thank the Queen for her Care of the Affairs of Spain.] February 19. The Com-

credit of the new favourite, Mrs. Masham. The duke of Marlborough, and the Lord-Treasurer, having discovered many of his practices, laid them before the queen, who would believe nothing, that was suggested to his prejudice. Her majesty denied, that she had given any authority for carrying messages to the Tories; but would not believe, that he or his friends had done it, nor would she enter into any examination of his ill-conduct, and was uneasy, when she heard it spoke of. These Lords wrote therefore to the queen, that they could serve her no longer, if he was continued in that post; and, on the Sunday following, when they were summoned to a cabinet council, they both went to the queen and told her, that they must quit her service, since they saw, she was resolved not to part with Mr. Harley. Her majesty seemed not much concerned at lord Godolphin's offering to lay down; and it was believed to be a part of Mr. Harley's new scheme to remove him; but she was much touched with the duke of Marlborough's offering to quit, and studied, with some soft expressions, to divert him from that resolution: But he was firm, and did not yield to them. Upon this they both went away, to the wonder of the whole court. Immediately after, the queen went to the cabinet council; and Mr. Harley opened some matters relating to foreign affairs. The whole board was very uneasy; the duke of Somerset said, That he did not see how they could deliberate on such matters, since the general was not with them. He repeated this with some vehemence, while all the rest looked on so cold and sullen, that the cabinet council was soon at an end; and the queen saw, that the rest of her ministers, and the chief officers, were resolved to withdraw from her service, if she did not recal the two, who had left it. It was said, that she would have put all to the hazard, if Mr. Harley himself had not apprehended his danger, and resolved to lay down. The queen sent the next day for the duke of Marlborough, and, after some expostulations, she told him, that Mr. Harley should immediately leave his post, which he did within two days. But the queen seemed to carry a deep resentment of his and the lord Godolphin's behaviour on this occasion; and, though they went on with her business, they found they had not her confidence. The duchess of Marlborough, for some weeks, abstained from going to court; but afterwards, that breach was made up in appearance, though it was little more than an appearance. Both Houses of parliament expressed a great concern at this rupture in the court, and apprehended the ill effects, which it might have. The Commons let the bill of Supply lie on the table, though it was ordered for that day. Upon Mr. Harley's removal, sir Simon Harcourt the attorney-general, sir Thomas Mansel comptroller of the houshold, and Mr. St. John secretary at war, laid down likewise their posts." Tindal from *Burnet*.

The duchess of Marlborough, in the Account of her Conduct, p. 252, &c. speaks of this affair in the following terms: "The duke of Marlborough and lord Godolphin had often told the queen in the most respectful manner, that it was impossible for them to do her any service, while Mr. Harley was in her confidence. Her majesty nevertheless seemed determined not to part with him, till at length those two lords, being urged by necessity to it, declared their resolution to serve no longer with him; and they absented themselves from the council. Mr. Harley would have proceeded to business without them, when the council met, but the duke of Somerset said, he did not see how it could be to any purpose, when neither the general nor the treasurer was present; whereupon the council immediately broke up. This had such an effect upon the queen, that, very soon after, Mr. Harley was dismissed from his post. Such a compliance with the ministers seemed to the eye of the world a very great concession, but was in truth nothing. For it was evident by what followed, that this appearance of giving up Mr. Harley was with his own consent, and by his own advice, who, as long as Mrs. Masham continued in favour, would, under pretence of visiting her, who was his cousin, have all the opportunities he could wish for, of practising upon the passions and credulity of the queen; and the method of corresponding with him had been settled some time before.——I was fully apprized of all this, continues the duchess; yet I resolved to try, if by being easy and quiet I could regain any influence with her majesty. She had given me some encouragement to hope it. For when, a little before Mr. Harley's dismission, lord Marlborough resolved to quit the service; and when, on that occasion, I had with tears (which a tender concern at the thought of parting from her majesty made me shed) represented to her, that, if the duke retired, it would be improper and even impossible for me to stay at court after him; she declared, that she could not bear the thought of my leaving her; and that it must never be. And at that time she made me a promise, that if ever I should leave her (which, she again said, must never be) she would bestow my offices among my children. Nay, the Whigs had some reason to flatter themselves about this time, that her majesty would become better disposed to them, than she had hitherto been. The pretender's attempt to land in Scotland, which happened about this time, gave her an alarm, that seemed to bring a conviction along with it, that the Whigs were the most to be depended upon for the support of her government; at least what she said, in answer to the Lords' Address upon the occasion, had this appearance. But as the danger presently blew over, and as her fears ceased with the cause of them, so all the hope, which the Whigs had raised in themselves from those fears, presently vanished."

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mons took into consideration the queen's Answer to their Address of the 5th of February *,

* "During the session of parliament, on the 18th of February, died a very eminent member of it, Sir Edward Seymour, at his seat at Maiden Bradley in Wiltshire. Nobility of descent, eminency of parts, great popularity, and a leading influence in the House of Commons, were the distinguishing circumstances of his life. Whether they were attended with real virtue and merit, cannot be deemed an improper inquiry; since without these outward appearances are insignificant and offensive. In the reign of king Charles 2, he laboured with uncommon diligence to promote the measures of the court, for the destruction of civil and religious liberty; and was neither afraid nor ashamed of any sort of management. His contemptuous and brutal behaviour towards the House of Commons, while he was in the chair, was astonishing and scarce credible. He acted there as the marshal of the court, and, agreeably to his instructions from thence, allowed the House a long or short day for business. He seemed to affect to be remembered by a series of words and actions, full of indignity and insolence; nor did he escape the public reproaches of many members for the licentiousness of his morals, which they declared to be a disgrace to the station, which he bore in their House. In order to bring him under proper discipline and correction, the next House of Commons chose him their Speaker: but his royal master, to preserve him from disgrace and vexation, refused his approbation in an unusual manner. His concurrence in the Revolution, and directing the Association, are to be ascribed to a resentment of what he esteemed ill usage under king James. To the establishment, ease, and success of king William's government, no one ever gave stronger proofs of an utter aversion. When that king had full evidence of his treasonable practices, such was his majesty's generous regard to his first appearances, that he gave him his choice of taking a place or his trial. Though he had often professed a contempt for the master and the service, prudence and guilt disposed him to a place. His conduct in this situation was a very ungrateful return for the favour, which he had received. In pursuance of his counsels early and seasonable remedies were neglected; every thing was to wait the attention of parliament. Thus the coin was reduced to a ruinous state, which proved the occasion of infinite mischief to affairs both at home and abroad. Whilst he declaimed against and prosecuted real or imaginary corruptions in others, he was a constant and most able practitioner this way. Rival companies and rival projectors successfully employed the sure method of procuring his protection. Foreign powers were very sensible of the certain way of assuring to themselves so significant and daring an advocate. Much of this kind was suspected, and many things well known; yet with an amazing sufficiency he continued to support his authority and influence. The regards of his party were secured by his unwearied sincere hatred of king William. In this reign, he, who in a former had betrayed and trampled on the privileges of a House of Commons, commenced the patron and enlarger of its rights.

"His highest pretensions to public spirit and public virtue were owing to opposite motives. His zeal in the impeachment of the earl of Clarendon, was not the effect of offences suggested in the Articles, but flowed from a desire of recommending himself to a corrupt court. Malevolence had been long working there on the account of that Earl's having joined with the earl of Southampton, in preventing profuse and destructive settlements of parliament. The prosecution of lord Somers arose from that lord's ability and fidelity in the service of his prince and the public; for neither sir Edward's obligation nor inclination would have urged him to pursue a real enemy of France. After he had been the terror of his enemies, and lived amongst his friends with a haughty superiority, a mean wretch hurried him out of the world, its most imperious disturber. When infirmities had confined him to his chair, his house was deserted by the servants on the account of some new diversions; and, in the mean time, an old female beggar of the maddish tribe happened to wander into the apartments. Finding the great man thus alone, she reproached him for all his cruelty and oppressions, threatened, terrified, and handled him in a manner, the effects of which soon put an end to a life, through the whole course of which he seemed equally insensible of crimes and punishments." Tindal.

and the question being put, "That the deficiency of the British troops in Spain and Portugal, at the time of the battle of Almanza, had been chiefly occasioned by the want of timely and effectual recruits being sent thither;" It passed in the negative; and, on the contrary, an Address was voted, and presented to the queen by the whole House, "returning her the thanks of the House, for her taking measures to restore the affairs in Spain, and for providing foreign troops for that service." To which the queen replied, "That she had always looked upon the war of Spain to be of so great importance to us, that she could never fail of continuing her utmost application to support it in the most effectual manner; and that the satisfaction they had expressed, in their Address, for her endeavours in this matter was extremely acceptable to her." The service in Spain was much decried, and there was good reason for it: Things there could not be furnished but at expensive rates, and the soldiers were generally ill used in their quarters, and were treated very unkindly, not by king Charles, but by those about him, and by the bigotted Spaniards.

Proceedings in relation to Scotland.] Feb. 27. This day there was a great debate in the grand committee of the House of Lords, occasioned by a bill passed by the Commons, for rendering the Union of the two kingdoms more entire, and compleat; whereby, in the first

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place, it was enacted, "That, from the 1st of May, 1708, there should be but one privy-council in the kingdom of Great Britain." All the Court was against this bill. Those, who governed Scotland, desired to keep up their authority there, with the advantage they made by it; and they gave the ministers of England great assurances, that by their influence elections might be so managed, as to serve all the ends of the court; but they said, that without due care, these might be carried so, as to run all the contrary way. This was the secret motive; yet this could not be owned in a public assembly; and therefore that, which was pretended, was, that many great families in Scotland, with the greatest part of the Highlanders, were so ill-affected, that, without a watchful eye, ever intent upon them, they could not be kept quiet. It lay at too great a distance from London, to be governed by orders sent from thence. To this it was answered, that by the circuits of the justiciary courts, and by justices of peace, that country might be well governed, notwithstanding its distance, as Wales and Cornwall were. The bill had been carried in the House of Commons by a great majority, that there should be only one privy council for the whole island. But, in the House of Lords, it met with a considerable opposition. The court stood alone; all the Tories, and the much greater part of the Whigs, were for the bill. The court, seeing the party for the bill so strong, were willing to compound the matter; and whereas, by the bill, the council of Scotland was not to sit after the 1st of May, the Court moved to have it continued to the 1st of Oct. It was visible, that this was proposed only in order to the managing elections for the next parliament; for which reason the Lords adhered to the day prefixed in the bill. But a new debate arose about the power given by the bill to justices of peace, which seemed to be an encroachment on the jurisdiction of the Lords regalities, and of the hereditary Sheriffs and Stewards, who had the right of trying criminals, in the first instance, for fourteen days time; yet it was ordinary, in the cases of great crimes and riots, for the privy council to take immediate cognizance of them, without any regard to the fourteen days: So that by this act the justices of peace were only impowered to do that, which the privy council usually did; and, except the occasion was so great, as to demand a quick dispatch, it was not to be doubted, but that the justices of peace would have great regard to all private rights. Yet, since this had the appearance of breaking in upon private rights, this was much insisted on by those, who hoped, by laying aside these powers given to the justices of peace, to have gained the main point of keeping up a privy council in Scotland. For all the Scots ministers said, that the country would be in great danger, if there were not a supreme government still kept up in it. But it seemed an absurd thing, that there should be a different administration, where there was but one legislature. While Scotland had an entire legislature within itself, the nation assembled in parliament could procure the correction of errors in the administration; whereas now, that it was not a tenth part of the legislative body, if it was still to be kept under a different administration, that nation could not have strength enough to procure a redress of its grievances in parliament; by which means they might come to be subdued and governed as a province. And the arbitrary way, in which the council of Scotland had proceeded ever since king James the first's time, but more particularly since the Restoration, was fresh in memory, and had been no small motive to induce the best men of that nation to promote the Union, that they might be delivered from the tyranny of the council; and their hopes would be still disappointed, if they were still kept under that yoke. This point was in conclusion yielded, and the bill passed by a majority of 50 Lords against 45, though to the great discontent of the Court. There was a new court of Exchequer created in Scotland, according to the frame of that Court in England. Special acts were made for the elections and returns of the representatives in both Houses of parliament; and such was the disposition of the English to oblige them, and the behaviour of the Scots was so discreet, that every thing, that was proposed for the good of their country, was agreed to: Both Whigs and Tories vied with one another, who should shew most care and concern for the welfare of that part of Great Britain.*

Discoveries of a Correspondence with France.] About this time two discoveries were made, very unlucky for Mr. Harley. Marshal Tallard wrote often to Mons. Chamillard, but he sent his letters open to the secretary's office, to be perused and sealed up, and so to be conveyed by the way of Holland. These were opened upon some suspicion in Holland; and it appeared, that one, in the secretary's office, put letters in them, in which, as he offered his service to the courts of France and St. Germains, so he gave an account of all transactions here. In one of these he sent a copy of the letter, which the queen was to write, in her own hand, to the emperor; and he marked what parts of the letter were drawn by the Secretary, and what additions were made to it by the lord Treasurer. This was the letter, by which the queen pressed the sending prince Eugene into Spain; and this, if not intercepted, would have been at Versailles many days before it could reach Vienna. He, who sent this, wrote, that by this they might see what service he could do them, if well encouraged. All this was sent over to the duke of Marlborough; and upon search it was found to be writ by Mr. William Gregg, whom Mr. Harley had not only entertained as a clerk in his office, but likewise taken into a particular confidence, without inquiry into the former parts of his life; for he was a vicious and necessitous person.

* Burnet, Tindal.

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He had been secretary to Mr. Gregg, when resident from king William to the court of Denmark, and afterwards to Mr. Vernon, envoy to the same court, by whom he was dismissed, for his ill conduct. Mr. Harley had made use of him to get intelligence in Scotland in 1705, and came to trust him with the perusal and sealing up of the letters, which the French prisoners, here in England, sent over to France, and by that means he got into the method of sending intelligence. He, when seized on, either upon remorse, or the hopes of pardon, confessed all, and signed his confession, upon which he was tried at the sessions in the Old-Bailey, where an indictment of high-treason was read against him, importing, "That he had sent letters to Mons. Chamillard, one of the French king's prime ministers, particularly one, dated the 28th of November last; and others, wherein were inclosed the proceedings of both Houses of parliament, in relation to the augmentation of our forces; a copy of a letter from the queen to the emperor; private business sent the duke of Savoy, &c." To which indictment, Gregg having pleaded guilty, the Lord Chief Justice Holt, and most of the judges being present, the recorder pronounced sentence of death against him, as in cases of high-treason.

At the same time John Bara and Alexander Valiere, alias John Clarke, were also committed to Newgate for corresponding with the enemy; and Mr. Claude Baud, a native of Piedmont, and secretary to count Briançon, envoy extraordinary from the duke of Savoy, was apprehended, at the request of that minister, by warrant from the earl of Sunderland, for traitorous practices against her majesty and government; but the same night, as the two messengers, who had him in custody, were carrying him to Newgate, he made his escape from them. But being followed by the queen's proclamation, wherein a reward of 200*l.* was promised for discovering and securing him, he was, within two hours after, betrayed by a French taylor, in whose house he had taken sanctuary, and put under the custody of a messenger. Valiere and Bara, who had been both employed by Mr. Harley as his spies, to go often over to Calais, under pretence of bringing him intelligence, were informed against as spies employed by France to get intelligence from England. They carried over many letters to Calais and Boulogne: and, as was believed, gave such information of our trade and convoys, that by their means, the nation sustained such great losses at sea. They were often complained of upon suspicion, but were always protected by Mr. Harley; yet the presumptions against them were so violent, that they were at last seized on, and brought up prisoners.

A Committee of seven Lords were appointed to examine Mr. Gregg, and the aforesaid persons.

These Examinations lasted for some weeks; and, when they were ended, a full Report was made of them to the House of Lords, who ordered the whole Report, with all the Examinations, to be laid before the queen in an Address: which was accordingly done.

The Lords' Address relating to Gregg, and Clerk, alias Valiere.] March 18. The duke of Bolton reported from the Lords Committees, appointed to draw an Address, to be presented to her majesty, upon the Reports relating to William Gregg and Alexander Clerk, alias Valiere, and the Resolutions thereupon, and debate of the House, 'That they had accordingly drawn an Address.' Which, being read by the clerk, was agreed to by the House, and is as follows:

"We, your majesty's most dutiful and obedient subjects, the Lords spiritual and temporal in parliament assembled, having been informed, that William Gregg, a Clerk in the office of the late Secretary Mr. Harley, had been indicted for High Treason, in holding correspondence with your majesty's enemies, and betraying to them secrets of the highest importance; and that, upon his trial, he had confessed the indictment, and by that means had prevented the Examination, whereby the public might have been truly informed of the particular nature and circumstances of his crime: We thought ourselves indispensibly obliged, in duty to your majesty, and for the future safety of the kingdom, to do all that was in our power, to find out the rise and progress of this dangerous Correspondence.—In order thereto, we made our humble Address to your majesty, for all papers relating to the charge against William Gregg. And your majesty having been graciously pleased to give orders, that the papers should be laid before us; we referred those papers to a Committee, and directed them to examine Gregg, and report the said Examination to the House; as also what they observed upon the papers, together with such other matters as they should think proper, upon their inquiry into the said affair. And the Report having been made, and taken into consideration by the House; we humbly conceive it to be very highly for your service, to lay the same before your majesty:"

REPORT CONCERNING GREGG'S EXAMINATION.

The House having appointed a Committee, to examine William Gregg, who is a prisoner in Newgate, convicted for high-treason; and having also been pleased to refer to the same Committee several Papers, which, upon the humble Address of the House, had been laid before your lordships by her Majesty's command; do humbly take leave to inform the House, that the effect of the several Papers, referred to the Committee, is as follows:

1st. "A copy of Gregg's Letter, which was intercepted, dated the 28th of Nov. 1707, O. S. sent to M. Chamillard, enclosed in a packet from marshal Tallard, directed to Mr. Robineau, his steward, at Paris.—In this Gregg sends to M. Chamillard a copy of the queen's

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Letter, written with her own hand, to the Emperor.—In the same letter, Gregg takes notice of two letters sent by him to M. Chamillard, the one dated the 24th, the other the 28th Oct. last, which he understood Robineau had put into his hands.—That, perceiving by Robineau's letter to his master, that M. Chamillard desired to know the Mareschal's sentiments of Gregg, Gregg had himself written to him.—In expectation of his answer, Gregg flattered himself, that the paper then sent was of that importance, that there could be no longer doubt of the devotedness of a Scottishman for France, not to speak of his zeal for the service of his prince, who had found refuge there.—That the lines under which he had drawn a stroke, were the thoughts of the Lord Treasurer, which he had added with his own hand to the first draught of the letter.—The same letter contained some other news.

2. "There was a copy of a Letter, dated the 25th Nov., O. S. in the same packet, subscribed William Gregg, in which notice is taken of what Robineau writes to Mr. Tallard concerning him; and that he himself had written to the Mareschal, and desired Robineau to deliver the enclosed according to the address, as being of great consequence.

3. "That the copy of a Letter from Mareschal Tallard, to Robineau, dated the 10th Dec. N. S. in which Mr. Tallard says, 'That as to the letters of which Robineau made mention in his of the 25th and 28th of November,' 'That he had delivered them according to the address;' M. Tallard knew nothing of their contents, but by the same post which brought his letters.—That he was obliged for the offers, but could make no use of them while he was a prisoner; when the peace was made, he would give proof of his acknowledgment to him who made the offers, and would endeavour to engage the person, to whom the letters were addressed, to do the same. In the interim, Robineau was to tell the person, to whom he delivered the letters, for whom the Mareschal had the utmost consideration, "That he was much obliged to him for desiring to know his thoughts before he would determine what to do; that the offers made did not suit with the present time, at least as to him, &c."

4. "An original letter, of the 2d Dec. 1707, to Mr. Robineau from Gregg, to felicitate him for being delivered from an importunate man, as would appear by Mareschal Tallard's letter, unless his last to M. Chamillard had not made him determine otherwise.

5. "Copy of another letter of Gregg to M. Chamillard, dated the 23d Dec. O. S. which was also taken in Mareschal Tallard's packet, in which he pretends to give M. Chamillard an account of what passed in parliament, with the queen's Answer to the Address of the two Houses, and his excuse for not sending the Address itself.

6. "A letter of Robineau to Tallard, 26th Dec., N. S. from Paris (transcribed by Gregg in his own hand,) in which he says, 'He was going to Versailles, to deliver the answer with which he was charged. That he received, every post, Letters from the same person; and that he took care to deliver them according to the Address.'

7. "Another of the 30th Dec. 1707, N. S. 'That he had been to deliver, as M. Tallard had charged him, the answer which was desired of M. Tallard.'

8. "Another in Gregg's hand, dated the 30th Dec. 1706, found in Gregg's closet, written to Chamillard, giving an account of the intention to send Mr. Palmes to Savoy, and to take several other German courts in his way.'

9. "A confession of Gregg, delivered to the Lords of the Committee, and signed by him.

"On Thursday the 12th of this instant Feb. the Committee, appointed by your lordships, went to Newgate, in order to examine William Gregg.

"They acquainted him with your lordships order; and told him, 'That as the crime, of which he stood attainted, was of the most heinous nature; so there were some circumstances so extraordinary, which attended his case, that the House of Lords thought it might be of service to her majesty and the kingdom, to have all the beginning and progress of his treasonable Correspondence fully laid open; that her majesty, upon the application of the House, had ordered all former examinations and papers concerning him to be laid before them.—They told him further, 'That, if he, by a true, ingenuous, and full confession, would deserve it, he might have ground to hope the House of Lords would intercede in his behalf, for mercy from her majesty; which otherwise he had no reason to look for.—He was also told, 'That, being a man of understanding, he was not to expect to be asked questions; but was to give an account of himself, when and how he became first employed; when, and by what instigation, he was drawn in to correspond with the queen's enemies; and how far it proceeded.'

"He said, 'That one Mr. Gregg, the late king's resident at Copenhagen, was his kinsman, and sent for him thither; and he continued with him about three years, till his death, which happened about two months before the late king died. That Mr. Vernon was sent envoy to Denmark; and took him, whom he found there, into his service, in which he continued about two years and a half, and then he was discharged from his service by Mr. Vernon. Mr. Vernon coming for England about his private affairs, while Gregg was in his service, and staying here some time; in that interval Gregg received some letters from Mr. Secretary Harley, which gave him occasion after to apply to him.—The 9th of Dec. 1704, Gregg came to England, and soon made application to Mr. Secretary Harley for employment; but was not recommended to him by any body. The 3d of Jan. he saw him first at his office, where he at-

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tended often. The 5th of Feb. 1704-5, Mr. Jones, the Secretary's first clerk, came to him, and told him, 'The Secretary would speak with him.' He attended on the Secretary the same day, who asked him, 'If he would be willing to be employed in his own country?' Gregg said, 'He was willing to be sent upon any good errand.' Mr. Secretary told him, 'It was to give an account of the proceedings of the ensuing parliament, which was to be held under the duke of Argyle.' The 6th of Feb. he went to the office; and Mr. Secretary told him, 'He should be dispatched in a few days.' To make some trial of him (as he supposed), Mr. Secretary asked him, 'If he could give an account of the court of Denmark.' Gregg said, 'He was willing to do it as well as he could;' and accordingly, in some time, he drew up a state of that court; and it was not disapproved. He attended daily; and on the 20th of April Mr. Secretary Harley gave him a note of 20*l.* to be paid by his steward in Scotland yard. On the 23d of May, 1705, he was ordered to go for Scotland, and about a week after set forward on his journey; when he was dispatched, a note of 30*l.* was given to him. Mr. Secretary always amused him, with telling him he should have instructions for his directions in Scotland; but at last ordered him to draw up some queries himself, about the state of affairs in Scotland; which he did, and they were approved. Some of the queries were 'What were the designs of the several parties? What correspondence between the Highlands and St. Germans? How affected to the house of Hanover? &c.' He was also ordered to form a cypher of letters, whereby to design the great men there. The 2d of June, 1705, he arrived at Edinburgh; and wrote to Mr. Secretary the Thursday following, being ordered to direct all his letters, 'To Thomas Bateman, in Scotland Yard.' Mr. Secretary promised, the receipt of his letters should be acknowledged; and he pressed often for it, to know they came to hand, fearing his letters were intercepted, because he was suspected as a spy in that country. But, though he wrote thrice a week, he never heard one word from Mr. Secretary, or by his order during his whole stay in that country.'

"Being asked by the Lords, 'If he was recommended to any body in Scotland?' He answered, No. The 15th of Oct. he arrived at London, and the next day waited on Mr. Secretary; who thanked him for his letters, and told him, 'He had named him to the queen, upon occasion of a paper he had sent.' But Gregg said, 'He believed the queen had never heard of his name, till this last unhappy accident.' On the 29th of Oct. Mr. Secretary ordered him 25*l.* He attended daily, and pressed much to be sent abroad, particularly to go with Mr. Methuen when he was sent to Savoy; but it was declined. On the new year's day, Mr. Secretary dropt a word, which startled him much; he told him, 'he would fix him;' which Gregg understood was bringing him into his office. Upon this, he presented a petition, 'That he might not be in the office, because the salary was small; and, being in debt, he could not live on it.' He attended every day. The Secretary inquired of him, 'What he knew of languages?' he said, 'He knew some French and German, but knew Latin better than either.'

"The 16th of April, 1706, he was admitted into the office; and a note was given upon Mr. Jones, as for one of the clerks; and Mr. Secretary told him, 'It was only to keep his hand in use, and that he would provide better for him.' The 16th of May, copying a letter sent to Mr. Vernon, 'That he was to consider of somebody fit to be left behind;' Gregg thought it to be intended in his favour; and wrote to Mr. Vernon on that occasion, desiring his countenance. But, the 23th of May, Mr. Secretary writing word to Mr. Vernon, 'That he had leave to come at his own time, but must leave somebody behind;' and this being wrote before any answer could come from thence, Gregg saw nothing was meant for him in the former letter.

"Gregg made offers of service to Mr. Pulteney; when he was to go; but he said, 'he was provided.' Then he told Mr. Secretary, 'His mind was depressed by his debts, and desired to be thrown abroad, and to go with sir Philip Meadows;' but that was refused, and Strahan was sent. Then Mr. Secretary asked, 'What would make him easy?' And he gave in a list of his debts, amounting to about 35*l.* Since that, Mr. Secretary has ordered him, at several times, about 20 or 25*l.* in the whole; the last sum was 7*l.* in October last, part of a bill of 14*l.* for which debt he was pressed at that time.

"Being asked by the Lords, 'If his debts only made him so desirous to be gone?' He said, 'At the rate the business was managed in the office, it was a perfect drudgery. Their business seldom began till about 11 or 12 at night; and they stayed till 2 or 3, or later, though sometimes not above two letters to dispatch; and he thought himself happiest, who could get away soonest. The method was, first, the letters were taken in short-hand, afterwards wrote fair, then sent to Mr. Secretary's house to be signed, and after returned to the office to be entered; so that they were obliged sometimes to stay till 4 o'clock in the morning.' He said, 'That in April last, when Hill the messenger was sent to Turin, the packet was left to him, though the youngest clerk, to be made up and delivered to the messenger. In that packet there was a letter to sir John Norris, and another to Mr. Chetwind; most of the last letter was in cypher; Gregg entered both those letters. There was also another letter to sir Cloudesly Shovell, and letters from the Lord Treasurer. He put them all up in the packet, and after gave them to Hill.'

"Being asked, 'If he knew by the letters what the design was?' Gregg said, 'He under-

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stood Toulon was to be besieged; he could not read the whole, but knew enough to find out that.' He said 'It was wrote in the cypher of the other office by Mr. Harley, the earl of Sunderland being sick at that time. The queen's letters de cachet are made up before they are brought to the office; but the clerks are trusted to make up other letters.'

"The Lords Committees required him to give the whole relation of his Correspondence, when it began, and how long it had been carried on.

"Gregg said, 'The first motive of his writing to France was, in order to get money, by obtaining a pass; and that his first letter was the 24th of October last. From his first entering into the office, he had always a great hand in perusing the French prisoners letters; that convenient opportunity and his poverty gave him the temptation. The French prisoners letters came under a general cover, directed to Mr. Lewis; Mareschal Tallard's letters are under a flying seal, the rest of them came always sealed, but are opened at the office. Generally Mr. Lewis threw them down on the table, and left the perusing them to the clerks, to Mr. Mann and Gregg; and since Mr. Mann left the office, they have been trusted wholly to Gregg. If Gregg observed any thing that he thought material, he made an extract of it, and shewed it to the Secretary, or Under Secretary; he mentioned a particular extract he had made out of a letter of M. Chamillard's to Mareschal Tallard.—Letters came from Nottingham every post; sometimes 20 letters came to them in a day from France, those came always sealed. From the time he came into office, these letters were never perused either by the Secretary or Under Secretary, which he is sure of, because they were sealed when he looked on them; he cannot for that reason say but Mr. Lewis might sometimes look in Mareschal Tallard's letter, because that had a flying seal; but the rest were left sealed as they came by Mr. Lewis to the clerk's perusal.' Gregg said, 'He had a dispute with Mr. Lewis upon the account of these letters: Gregg declaring he thought it not to be a business fit for the under clerks to be trusted with.'

"Mr. Secretary Harley wrote a letter, in answer to one from Mr. Ponchartrain, thanking him for his civility to one Middleton. In transcribing it, Gregg found it so ill turned, and the French so bad, that he acquainted the Secretary with it at 11 a clock at night, in October last. This letter was stopped, and lay a month in the office; but after, Mr. Lewis sent it away as it was wrote at first.—The rough draught of the Queen's Letter to the Emperor, as it was altered by the Lord Treasurer, was left in the public book of the office to be entered the same night it was to be sent away; there, Gregg said, he found it, and transcribed it; and any other clerk of the office might have done it as well as he. All the books in the office lie in a press; the key is always in the door, and not only the clerks, but the chamber-keepers, may have access. All letters, except those wrote to the duke of Marlborough, are entered in the books; but those are only copied in loose sheets. Gregg said, he had copied many of those.—The draught of the Queen's Letter to the Emperor was prepared by Mr. Lewis; it was then written in the hand of Mr. Thomas, Mr. Harley's domestic clerk; the addition was in the Lord Treasurer's own hand; Mr. Mann saw it as well as Gregg. Mann said to Gregg, 'That what was added by the Lord Treasurer, was much the brightest part of the letter.' Gregg said, He sent all his letters to France, under the cover, to Mr. Robineau. He owned he sent the copy of the Queen's Letter to M. Chamillard, the same night the Queen's Letter was dispatched to the Emperor. He said further, That the Letter in the Queen's own hand was given to Gregg by Mr. Secretary himself, about one a clock at night; and he was solely entrusted to put it up in sir Philip Meadows packet, after every body had left the office.

"Robineau, in his Letter to Gregg, took notice, 'That he had delivered his Letters to Mr. Chamillard, and that Mr. Chamillard sent to advise with Mareschal Tallard upon Gregg's proposal.' Upon this, Gregg wrote a Letter to Mr. Tallard, of which, he said, he had no copy; but pretended to repeat the words of the Letter to the Lords Committees.

"The Lords Committees told Gregg, 'It would be expected by the House, that he should be very clear and particular, in declaring by what advice or encouragement he first began such a correspondence.' He said, 'By none at all; he was tempted to it by the devil, and the hopes of getting money.' He said, 'That upon hearing a French periwig-maker was committed to Newgate for High Treason, he had desired to be admitted again to the Lords of the cabinet council.' But he would not own, that he knew the man: but said, 'He had since heard his name was Valiere, or Clark; he was told so by a gentlewoman, who came to see him since his condemnation.'—He said, 'He held no correspondence in England, but only in sending the common Letter of the office, with other printed news-papers, to some gentlemen.'—Gregg said, 'He had been long acquainted with one Crookshanks; who promised him, 'That, if he would procure a French pass, he should have 200 guineas;' and Gregg undertook to procure the pass. The first time he wrote to Mr. Chamillard was the 24th of Oct. last.—Brown a merchant, father in law to Crookshanks, and one Bollinger, a merchant, were acquainted with this agreement about the pass; and they dined together at Brown's house; and Brown undertook for the money, if the pass could be procured.

"Gregg said, 'He acquainted Bollinger of his having sent a copy of the queen's letter to Mr. Chamillard, at the Cross Keys Tavern, in Covent Garden; and shewed him extracts of Mareschal Tallard's and Robineau's letters.'

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He said also, 'That he read the extracts of their letters, at another time, in English to Brown and Crooksbanks.'

"The Lords Committees asked him, 'To what end he told Bollinger of what he had done in sending the queen's letter to Mr. Chamillard?', he only said, 'It was downright madness.' They asked him, 'If any body came to him?' he said, 'One Mr. Arbuthnot came to him, and nobody else; and his business was to bring him charity.' They asked Mr. Gregg, 'If he had no more to acquaint their lordships with?' he said, 'No.' And being told by them, 'That it concerned him very much to consider of it; that the Lords observed, he had told them nothing but what he knew they had means in their hands to be fully informed of, without his saying any thing; and how hard it would be for the House of Lords to believe, that he would venture upon such a correspondence without some support or encouragement;' he persisted in it, 'That he had no more to say.'

"As the Lords Committees were risen up and had called for the keeper to take Mr. Gregg away, he took a brown paper out of his pocket which was sealed up, and took out of it a paper, which he said he had prepared against the queen's birth day, and desired the Lords to read it; it purported to be a Petition to the House of Commons; he pretended he knew not how to get it delivered, because he concluded all the papers sent by him would be delivered to Mr. Secretary Harley.—The Lords finding the paper to be addressed to the House of Commons, told him, 'It was not proper for them to receive it;' and delivered it immediately back to him again.

"The Lords Committees, as they went away told Gregg, 'That if he would recollect himself, and set down in writing any thing that he thought might be for his own service, or of use to the queen and her government, he might send it to them; and the keeper should have directions to convey it safely.'

"The next morning, Gregg sent a letter to the Lords Committees; which, as soon as they had perused, they returned to him again, by a gentleman, with the following Message, 'The 'Lords of the Committee have ordered me to 'return this Paper to you; they being of opinion, 'that it is not material to the Examination for 'which they were sent to you by the House.'

"The Lords Committees think themselves obliged to acquaint the House, that they did not observe Gregg to be under any disorder, or terror from the apprehension or sense of his danger.

"The Indictment of Gregg, for his Treasonable Correspondence with her majesty's enemies, was brought before the Lords Committees; which indictment he confessed upon his trial, and judgment was thereupon given against him.

"The Lords Committees do think it their duty to acquaint the House, That they having been informed, by means of the keeper of Newgate, That one William Gregg had been formerly in Newgate, and indicted for counterfeiting the coin of the kingdom; and that it was talked, amongst the turnkeys in the prison, that this was the same man; they sent to search the books in Newgate and found there, that in May 1697, William Gregg and Elizabeth Gregg were indicted, for counterfeiting the coin. Thereupon they sent for Mr. Tanner, who has the custody of those records; he brought the indictment before them; and it appeared that Elizabeth Gregg was found guilty and executed, but that William Gregg was acquitted and that Thomas Holloway and Simon Newport were the witnesses at the trial, who, as was said, are both dead since that time.

"But one Thomas Kinserley and James Biddle declaring, 'That they both knew that Gregg, who was then indicted, very well, and believed they should know him again, if they saw him;' the Lords Committees sent them severally to see William Gregg, now in Newgate, and they both of them did declare, 'That they believed, and were confident, that the same person, now in Newgate, was the same William Gregg who was then indicted, and whose supposed wife was then found guilty, and burnt;' and they did both of them voluntarily make oath to this effect; and James Biddle swore, 'That, after the Trial the discourse in the neighbourhood was, that Elizabeth Gregg took the whole matter upon herself at the trial.' Their two Affidavits are laid before your lordships. After one of these persons had been to see Gregg, Gregg wrote a letter directed to the Lords of the Committee; in which he did very positively deny that he was the person who had been tried for coining, in May, 1697."

"May it please your majesty; We being "also informed, That one Alexander Valiere, "otherwise called John Clark, was in custody, "for holding correspondence with your ma- "jesty's enemies; we thought ourselves in like "manner, obliged in duty to direct the said "Committee to examine Valiere, and to inquire "into the particulars and circumstances of his "offence. This being accordingly performed "by the said Committee, it was reported to us; "but, the said Report consisting of very many "Examinations, we thought it would be of use "to appoint a Committee to digest and put the "same into some method, to the intent we "might be able to form a clearer and more "distinct judgment of the whole affair; and "that Report being made and approved by us, "we conceive it will be of importance to your "majesty's service for us to present the same to "your majesty. And for your majesty's more "entire satisfaction, we beg leave to annex all "the said Examinations at large to this our "humble Address to your majesty."

Valiere alias Clarke's Examination.

"Your lordships having been pleased to appoint this Committee to take into their consideration several Examinations, Letters, and Papers, referred to them and to direct them to reduce the same into such method as

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they should think most proper for the service of the House; the Lords Committees, have in obedience to your lordships order, endeavoured to put the many Examinations and Papers relating to Alexander Valiere and John Bara into a natural and proper method; and they do humbly lay the same before the House.

"*Alexander Valiere* of late years commonly called John Clark, is a native of France, and went over into Ireland in the French troops sent to assist king James; he deserted or was taken prisoner, about the time of the Battle of the Boyn; he was not taken into the regiment, but was a footman to Mr. Doge, an ensign in captain Rochfort's company in Belcastel's regiment, where he continued about two years, and then got a discharge from his master, but refused to list himself as a soldier. —He came over into England, and served some time as a drawer in a tavern, and was afterwards a servant to several persons; and at last bound himself apprentice to one Guyon a periwigmaker; and when his time was out, worked as a journeyman in the city, and married a midwife's daughter behind the Exchange, and got his living by making of periwigs. He was looked upon to be a papist, and his discourse was generally for France and that interest; and he talked against the government in so insolent and public a manner, that, for that reason, at Jacob's coffee house, one Manteau threw a glass of beer in his face.

"*Barbier* says, That, on May day last he met Valiere in the street; who told him, 'He had now got a better trade than periwigmaking.'

"Clark himself pretends, "That during the peace, he entered into some sort of merchandizing; and that upon the breaking out of the war, having some share in a ship that was stopped in France upon that account, he applied to Mr. Secretary Hedges, to get a pass for Holland, but was refused.

"One Wilmot, of Doctors' Commons, being employed to negotiate the exchange of M. D'Alegre, Galissioniere, and some other French prisoners, made use of Valiere as an interpreter; and afterwards Valiere gave some account to the Secretaries of a fraudulent trade carried on between Ireland and France, by one Hanaum, which might make Mr. Secretary Harley first think of employing him to get intelligence. Mr. Harley proposed this to him in the year 1704-5. Valiere said, 'He thought he might be able to procure intelligence by the means of one Bara, who was then in France, and was acquainted with M. Chateauneuf, the commissary at Calais.' In order to settle this correspondence, Mr. Harley furnished him with 150*l.* in about a month's time, out of which Valiere pretended he gave Bara 70*l.* and made a present to the commissary.

"Valiere says, 'All the service Bara did as to come over twice from France; first in a French boat, with the news of the prince of Darmstad's being killed; and next in Bland's boat, (which Valiere had sent to Calais), with the news of Barcelona's being taken.'

"Bara went back to France, in three or four days, in the same boat with Bland's boy, and carried from Valiere to Chateauneuf satinette for a bed, a watch, scarlet stockings, and some toys, which was the present abovementioned. In a short time after, Bara came back to England again, and brought with him a Frenchman, who had been a sea-officer: Valiere acquainted secretary Harley with this, who granted his warrant for apprehending them both; but they made their escape.

"In the spring following, Valiere saw Bara at Deal, when he was just come out of the custody of a messenger; having been first apprehended by the magistrates of Dover, for coming out of France. At that time, he was informed, Bara had a pass from the secretary of state; though he had before told Mr. Harley, 'he knew Mr. Bara had 500 livres given him, in France, for service to the king:' Valiere said, 'He was sure this was fact.'

Bara's Examination.

"*John Bara* gives the following Account of himself, and of his transaction with Valiere and with Mr. Secretary Harley: he says, He is a native of France, and was surgeon major to Dubart, during the late war, till the two last years; when he left him, upon a dispute between them concerning a prize. At Dunkirk, he had opportunity of assisting several officers and soldiers in the English service, who were prisoners there; and they promised to help him in his profession, if he would come into England; which he did, as soon as the peace was made. He became first acquainted with Valiere by means of the master of a ship of St. Valery; and this acquaintance was continued by one Dormicour's coming into England from Dunkirk, upon account of debts he owed, who was known to both of them. Dormicour, being about to return to France, told Bara, 'That Valiere proposed to him the sending over the Paris Gazette sooner than by the way of Holland;' which Dormicour had promised to do, if he might have leave on the other side. Afterwards Valiere made the same proposal to Bara; who said, 'he would do it, if he had protection for his person.' Valiere said, 'He had a sufficient authority for sending him to France;' and produced a paper, sealed, with Mr. Harley's name to it; and Valiere went with Bara to the secretary's office, and procured a pass for him, to go to Holland. Valiere gave him a note for 3*l.* which he never received; and also a hook and chain for a watch, which was to be a token to one Nerinx, a merchant, at Rotterdam, to pay him 30*l.*; and the money was answered accordingly. From Rotterdam he got to Dunkirk, and from thence to Calais; between which places he continued till Oct. 1705, at

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which time he had 30*l.* more remitted him by Nerinx. He wrote constantly to Valiere, by the way of Holland, such news as he could pick up; till, about the 4th of October, he came over to England, in a boat he had bought, and brought with him a Paris Gazette, which he delivered to Valiere. In nine or ten days Valiere sent him back to Calais, in Bland's boat (who had been sent over by Valiere with two packs of wool, consigned to Chateauneuf, while Bara was at Calais); but at this time Bland carried over no goods, but only an open letter to Chateauneuf for 17 ankers of brandy. They stayed at Calais three weeks, and the commissary bore the whole expence.

"Bara returned to England, and stayed at Margate about a week; and then went back for France, with Bland's boy only: in their passage they were driven to Newport, and made prisoners: but Bara sending a letter to Chateauneuf, upon his writing to the governor of Newport they were released, and proceeded to Calais. At this time Bara carried over with him 36 yards of sattin, 2 pieces of stuff, 2 pair of stockings, and 2 cases of knives: the stockings only were a present to M. Chateauneuf; the rest was for Bara's subsistence, Valiere (as he then said) having no money to give him.—Bara staid at Calais two months, and then came to Margate, and brought with him one Corselli, a merchant; with whom he went to London, and acquainted Valiere with their being come over, and that Corselli was then at London. Valiere (as Bara has been since informed by Bland) sent this Corselli back to France, by the way of Holland.—Bara durst not stay in London, finding there were messengers out from Mr. Harley to seize him, which were procured by Valiere; and he then charged Valiere with it.—Bara went to Deal, where he stayed seven weeks, and at Dover nine or 10 days; from whence he found means, by an exchanged prisoner, to convey a letter to Chateauneuf, desiring a boat might be sent over for him; which was done accordingly, and he went over in it to Calais.—Bara, drinking one night with Chateauneuf, complained of his usage from Valiere: the commissary advised him to return to England; saying, 'He was sure Valiere had a protection from Mr. secretary Harley; and Bara acting by Valiere's orders, it was impossible he should suffer by the government; and that Valiere must be a great rogue, if he did not protect him.'—Bara returned about the 27th of April, and, upon his landing, wrote to Mr. Harley; but, before an answer came, he was seized at Dover, and brought before the mayor."

Capt. Whitehall's Examination.

"This was done by the means of captain Whitehall; who gives the following Account of the matter: In April 1706, Carter informed him, That Bara was returned; whereupon he seized him, and had him examined before the mayor of Dover, who took affidavits of the matter. Mr. Whitehall sent an account of this to the Commissioners of Customs, with copies of the affidavits, by a letter of the 29th of April. This Letter follows:

"Custom-house, Deal, April 29, 1706.

"'Honourable; It is now about a year since 'I laid before you the depositions of Cook 'and others, relating to a correspondence car-'ried on by some French refugees with France; 'in which one Carter, a butcher of this town, 'had a considerable hand; but withdrew him-'self from his family, to avoid being appre-'hended, as I acquainted you by my letter of 'the 19th of April, 1705. About two months 'ago, Carter sent me word, 'That, if I would 'permit him to return to his family, and suffer 'him to be quiet at home, and obtain for him 'the pardon of the government for his past 'faults, he would soon make a discovery of 'some practices of very dangerous conse-'quences to the government:' and accordingly, 'about a month ago, he gave me an account, 'That one Bara, a Frenchman, was lurking 'about these parts, waiting the opportunity of 'a French boat, to come to fetch him to 'France;' and, in pursuit of that information, 'he discovered to me where the said Bara 'was concealed; but before I could get to the 'place, he had got his passage, by a French 'boat for France, about half an hour.—On 'Friday last Carter came to me again, and 'told me, 'That Bara's return was every day 'expected.' And was so diligent in the prose-'cution of his information, that yesterday 'morning he acquainted me where Bara, one 'Beverton a shopkeeper of Canterbury, and 'the rest of Bara's accomplices, were. Where-'upon, with the assistance of Mr. Forster '(your survey orof Dover), I apprehended Bara, 'alias Renew, alias Barrault, alias Monminion, 'alias Julian, by all which names he is known 'to several persons who appeared against him. 'For the rest, I humbly refer you to the copy 'of the several depositions sent you herewith, 'which will give you further information in 'this matter: but I am sorry I must tell you, 'that though I have got the man, yet he had 'time to convey away the packet, which I pre-'sume was letters, before I could apprehend 'him; all the rest of the goods that he brought 'over with him being only two ankers and a 'few bottles of brandy, which I seized at St. 'Margaret's, and have brought to the Custom-'house at Dover, where also Bara is now in 'gaol. Wherefore I humbly beseech your fa-'vourable presentation of this matter to the 'secretaries of state, that Carter may be par-'doned for his past crimes; and that he may 'have such fitting encouragement as may ena-'ble him to do further services, which I believe 'he is capable of; for he is not yet discovered 'to be the informer in this case. I am, &c.

'To the Hon. Commis-'sioners of Customs." L. WHITEHALL.

"This gave occasion to Mr. Secretary Harley to send a Letter to Mr. Whitehall, dated the 29th of May, 1706; which follows:

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"Whitehall, May 29th, 1706.

"'Sir; I am very well satisfied of your care 'and vigilance for her majesty's service, and 'the performance of the duty of your office; 'and I both have already and shall also con- 'tinue to commend your diligence, where it 'may be of use to you, in the affair of seizing 'Bara: and I am willing to take it only for 'inadvertency, when you saw or heard of a 'warrant under my hand, that you presumed 'to send notice of it to any one but myself: I 'am willing to impute it to nothing but want 'of attention; because, I am sure, had you 'thought of it, you must consider, that, in this 'juncture, it is of great consequence to have 'intelligence of what they are doing in France. 'I will not suppose you think yourself proper 'to judge who is to be employed upon such 'occasions, nor to know what their business is. 'As to the business of duties, or customs, that 'certainly belongs to you to take care of; and 'when any of those things fall within your 'notice, you will certainly do your best for 'the queen's interest. Therefore I must now 'inform you, that the man named Clarke, and 'the other called Bara, are made use of, upon 'a sudden exigence, on behalf of the public: 'they were formerly friends, but since fallen 'out, and therefore fit to watch each other; 'and I shall be glad you will have an eye upon 'them both, and give me directly notice of 'their motions, whenever they appear there. 'I am, &c. RO. HARLEY."'

'P. S. It is very unfortunate, that none are 'taken but those who are to serve the govern- 'ment; when, at the same time, it is known 'that scarce a week passes but the enemies of 'the government have their emissaries land, 'without observation; and it is more unfortu- 'nate that the stopping Clarke, some weeks 'since, has hindered the discovery of those 'ships which took the Holland convoy. You 'will acquaint Mr. Carter, that he need not ap- 'prehend any thing from the impertinence of 'Bara's threatenings.'

"To this Letter, Mr. Whitehall wrote an Answer, of the 31st of May, 1706: of which the copy followeth:

"Sir; May 31st, 1706.

"I cannot but think myself unfortunate, that 'the first letter I have the honour to receive 'from you should indicate any doubt of my 'real intentions to serve the government.—I 'am sorry that you can tell me, 'That there 'are many emissaries of France who can land 'without observation:' I hope it is not within 'the district where I have to do. And as it is not 'easy for me to know what persons have the ho- 'nour of your countenance for the public service '(especially when I am well informed, that they 'are wafted over, between England and France, 'at the expence of the French); so I most 'humbly crave leave to observe to you, that 'I can never make any distinction of persons 'coming from France, without the directions of 'the government (or from you) so to do. And 'therefore I do, with all submission, pray, That 'you will be pleased to put a good construction 'upon what I have or may do, on the like oc- 'casions; and (that I may not, for the future, 'do any thing which may cause ill consequences 'to the public) that I may have your instruc- 'tions (if you think it fit for me) to stop or take 'up strangers and suspected persons (lurking in 'these parts), of whom I may have information, 'since you are pleased to acquaint me, 'That, 'by stopping Clarke, some weeks past, has 'hindered the discovery of those ships which 'took the Holland convoy.'—I beseech your 'pardon, for writing to captain Baker, and not 'directly to yourself. But the Commissioners 'of the Customs having acquainted me, 'That 'they had directed captain Baker to lay those 'papers relating to Bara before you, and that 'I was to correspond with him in such cases;' 'led me to do it, not knowing then that it was 'any fault in me. And therefore, since you are 'pleased to pass it off as inadvertency, and to 'give me liberty of writing to you; I dare, with 'all respect, assure you, that I will behave my- 'self with more caution for the future.—In 'obedience to your commands, I take this oc- 'casion to acquaint you, that I have of late had 'a very watchful eye on both Clarke and Bara; 'but cannot find that there is any disagreement 'between them; for they have, within this 'week, been frequently together at Deal, in a 'friendly corresponding manner (particularly 'last Sunday and Monday, as also yesterday, 'when Clark rid from Deal); and seem to be 'very well acquainted with each other's pur- 'poses, according to the information I have re- 'ceived of them, which I have good reason to 'give credit to. I am, &c.'

"The same day, after he had sent away his Letter, Bara applied to Whitehall, to help him to a boat to go for France; which he refused to do without an order from the Secretary; and thereupon, the same day, Mr. Whitehall sent away another Letter to Mr. Secretary Harley; of which this is a copy:

"Sir; 31st May, 1706.

"I think it my duty to acquaint you, that, 'since the dispatch of my letter of this date, 'Mr. Bara came to me at Deal, and told me, 'That he could not carry on his purposes he 'was sent hither for, without I would assist 'him in getting a boat to carry him to France; 'which, I confess, startled me, that he should 'make so free application to me, who had so 'lately taken him up: but, persisting in his de- 'sires, I was obliged to let him know, that I 'could not give him any aid of that sort with- 'out your authority for so doing; which, he 'said, he wanted; but would write to you this 'post for it. So, waiting your commands, 'which I shall endeavour to execute with the 'greatest diligence, fidelity, and secrecy, I 'am, &c.'

"Mr. Harley returned an Answer, dated the 1st of June, 1706; of which this is a copy:

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"Sir, Whitehall, June 1st, 1706.

"I have this day received two letters from you 'which give me fresh instances of your great 'care in every thing that may be for her majes-'ty's service. You will easily believe, it is of the 'greatest consequence to have early advice of 'what the enemy is doing; and, in order to it, 'I should be very glad you would furnish Bara 'with what he wants, provided you can do it 'without giving any cause of suspicion, or being 'observed by any body. I am, Sir, &c.

'Ro. HARLEY."

"But Mr. Whitehall did nothing upon the Letter, not thinking it contained orders which were full and clear enough to justify him.

"But Bara says, 'That, four days after his examination before the mayor of Dover, he was carried to London by Mr. Harley's warrant; and owned to the secretary, he had been in France; and that he had been sent thither by Valiere.' Bara continued in custody 21 days; after which, Mr. Harley sent for him, and told him, 'He had prevailed with the queen to pardon him; but he must go away immediately to Dunkirk, and see what naval preparations were there; and bid him say nothing, and he would make use of him.' Bara performed this voyage in an open boat, and returned in seven days; and brought word, 'That there were but two men of war, both unrigged; and that Fourbin was gone northwards, after the Russia fleet.'

"This was the time he was carried over by William Mason, waterman; who says, 'That, as soon as they landed, Bara and he went directly to the governor's house: Mason stayed below till Bara came down to him. Bara was well known and well received in that town, They stayed there two days, and then returned. Bara was set ashore near Sanddown castle: he was very fearful of being seen, being well known on the coast.'

"Bara says, 'In the same year he was sent over by Mr. Harley for the Paris Gazette, and brought it accordingly.'

"It appears, by the Examination of Isaac Howard, 'That this year he carried Bara over to Calais; that, when they landed, a file of musketeers took them into custody; and, as they were going along, a man speaking to Bara, he struck him a blow upon the face with his hand: That they were carried before the commissary, where Bara was kindly entertained. He stayed with the commissary two hours; was entirely at liberty, during two days that he stayed: After which, Howard brought him back to the Downs.'

"Bara says, 'He was arrested at Deal, which he thought was by Valiere's means, who hindered him to have a boat. He sent word of this to Mr. Secretary Harley; who wrote to captain Whitehall, to help Bara to a boat, but he would not do it; so Bara went back to London, and complained to the Secretary of him.'

"Bara says, 'He was at Calais, with Chateauneuf, about six weeks before the Hampton-Court and Grafton were taken. The Commissary told him, 'There was a great fleet in the Downs, which were to be convoyed by some men of war; and that they were equipping at Dunkirk nine men of war, to intercept that convoy; and he had received most pressing orders to speed away the seamen to man those ships:' He said, 'He hoped this year they should have their revenge, and ships should not go out of the Downs so easily as they had done,' At this time Chateauneuf told him, 'Valiere played him a trick;' and shewed him part of a letter from Valiere (but would not let him read the whole), wherein Valiere bid Chateauneuf 'have a care of Bara; for that he was employed by the government in England.'

"Bara stayed but three days at Calais; and came directly to Mr. Harley, and told him what he had heard about the Dunkirk squadron, but did not then mention what had been shewn him in Valiere's Letter; having several times before acquainted Mr. Secretary, 'That he trusted Valiere too much; and that he was not the man he took him to be.' But Mr. Harley never answered him any thing to that matter.—When Bara told Mr. Harley about the Dunkirk squadron, he seemed not to believe it; but when those ships were taken, Bara went to him, and asked him, 'If he did not believe it now?' To which he replied, 'He did remember Bara had told him of it.'

"John Carter says, 'That about the 27th of March, 1706, he came first acquainted with Bara, who used to go over from England to Calais, and return in French boats. He was seized at Dover by Mr. Whitehall, which Bara suspected to be by Carter's means: he was examined before the magistrates; but was soon after sent for to London, by Mr. Harley's orders; and in a short time after returned to Deal, and, pulling out of his pocket a handful of guineas, shewed them to Carter, and told him, 'See what I have got, by being seized at Dover, by your means.'

"Valiere spoke very ill of Bara to Carter; and persuaded him not to have any thing more to do with him: but though both of them railed at each other, when asunder; yet, when they met, they appeared to be very good friends.

"Bara doing little service for Valiere, as he pretends, he broke with him; and then sent one Green, of Gravesend, to M. Chateauneuf, but he also did little service, and was no more employed. He after engaged one Stephen Barry, a druggist, in London, who was then lately broke. He was sent over to Calais, by the way of Holland; and was directed to tell Chateauneuf, 'That Valiere's meaning was, only to get such news as he thought fit to send and to desire him to convey it to Valiere.' The first boat which Valiere owns to have sent over to France was Bland's, a waterman, of St. Catherine's, near the Tower.

"The account which Bland gives of his voyage is as follows: 'That, in August 1705,

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Valiere, telling him he had a sufficient authority to protect him from any mischief might arise upon account of his going to France, sent him to Calais, with some wool, consigned to Chateauneuf, and a letter. As soon as he landed at Calais, he was seized, and carried to the governor, and after to the commissary, to whom he delivered the letter: then he was carried to an inn, and provision made for him; and, falling sick there, a physician was sent to take care of him. He was used with much civility, and the commissary defrayed all charges; and also, his boat being much out of repair, the commissary took care of having it put in very good order, out of the king's stores, without any expence to him. He brought back brandy, and a letter for Valiere, which Bland delivered to him. In September following, he made a second voyage, upon Clark's account, when he carried over Bara. Clark wrote a letter, which he gave to Bara when they landed. Bara left him, and went directly into the town. Bland was carried to the former inn, and his charges were paid, as before. He went often to the commissary's house, and was much made of; and, after about ten days stay brought back Bara, and 17 ankers of brandy, and a letter from the commissary, which he delivered to Valiere.'

"About Midsummer 1706, Valiere employed John Carter to buy wool, and procure men to go over for him to France. Carter brought John Weaver and Philip Wathing to Valiere, who told them, 'He would bear them out for going to France; for he was employed by Mr. Secretary Harley;' and shewed them a paper, with his name and a seal; which they the rather gave credit to, because Valiere had before been examined by the magistrates, and set at liberty: and thereupon Weaver, Wathing, and John Hartley (apprentice to Weaver), went over to Calais, with some wool, and a letter to the commissary, and another to one Camus a merchant. They were all seized, at their landing, by a guard, and carried before the governor; who enquired of them, 'What news in England, and what ships there were in the Downs, and whither bound, and what strength the English had in the Streights?' They told the governor, 'They had a letter for the commissary.' The governor sent them to him, and they delivered him the letter. After three or four days, the commissary himself came to them, and brought them a packet for Valiere; upon which, they returned for England, and delivered the packet to him; who thereupon went immediately to London.

"Soon after, the same crew went over again, with wool, and a letter to the commissary. In their passage they met with a small French privateer, who inquired of them what men of war and merchantmen were then in the Downs. And, as Hartley says, Weaver and Wathing told them all they knew of the men of war and merchant ships, whither they were designed, and when they were to sail; and, having given this account, the privateer suffered them to go on. As soon as they landed, they were seized, and carried first to the governor, and afterwards by the guard to the commissary, to whom they delivered their letter, and then were carried to the inn; where they were kept 10 or 12 days under a guard, and not suffered to go out, because the Dunkirk galleys were then in the road. When the galleys were sailed, the commissary gave them a packet for Valiere; and they returned, and delivered it to him. At this time Valiere told them, 'He could have other men to go for less money;' but they refused to take less, and so they parted.

"In July 1706, Valiere proposed to Daniel Morrillion and Joseph Verge to go to France; and bid them take in what goods they pleased, and he would give them a letter which should protect them. Upon the credit of this, they provided wool, and had two letters from Valiere; one to the commissary, and the other to Camus, a merchant, who was to furnish them with brandy for their wool; and then they two, together with one Bailly, went over to Calais; where, upon their arrival, they were seized by the guard, and carried to the governor; who examined them about the number and rates of the men of war in the Downs, and particularly about the Dutch transports, and if they knew to what place they were bound, and if they were intended for a descent upon any part of France: what frigates were cruizing off of Beachy, Dungeness, and the North Foreland, and what merchant ships there were in the Downs. They shewed the governor the letter they had for the commissary; and he returned it to them, to carry to him. The commissary sent them to Marvell's house; and told them, 'They must not stir from Calais till they had his packet;' which in two or three days after he sent to them; directed, 'To John Clarke, merchant in Bristol,' together with a pass to secure them against privateers; and they brought back brandy with them.—In August they went over again; and upon their landing were carried to the governor, and were again examined about what ships were in the Downs. They told them, 'The Dutch transports were sailed.' They brought back brandy, and a packet for Valiere from the commissary; and the custom-house boat coming up with them, they threw the packet overboard."

"Valiere's general directions to those he employed to go over to France were, 'That, if they thought themselves in danger of being taken by the English or Dutch vessels, they were to throw their letters overboard; but if they met with French ships, they should shew their letters, which would help them to get to France.'

"Morillion and Verge, upon their return, were brought before the mayor of Deal. Verge denied they had been in France, but Morillion confessed it: soon after both of them were sent for by messengers to London, and carried before the two secretaries of state; where, being examined, they acquainted them with all

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that passed at Calais, and with their throwing the packet into the sea, according to Valiere's orders. Upon this, they were remanded into the custody of the messengers, where they remained four months, and then were discharged without any farther examination.

"Verge says, 'That, whilst he was in prison at Deal, Valiere came to him, and bid him not fear, he would take care he should come to no harm.' And says, 'That, the very same night he came out of custody, Valiere came to him, and proposed to him to go over again to France; but he refused to go, being sick at that time.'

"In August 1706, Valiere employed Thomas Gosby and —— Steed, both of Walmer, and Thomas Hatton, who carried over wool, and a packet for the commissary. Upon their landing, they were immediately carried to the governor, who received them very well; and asked them, 'What news in England? and what ships of war, or merchants, were then in the Downs?' The commissary shewed his letter to the governor, and then carried them to Marvell's house, the inn; and they had not leave to return in five or six days, till letters came from Paris; and then were dispatched with brandy, and a letter to Valiere, which were delivered to him.

"Gosby and Steed refused to go a second time, because, as they told Carter, they were examined very strictly by the commissary, what news was in England, and what ships were in the Downs? And the commissary took notes of all they said; and detained them there till they sent to Paris, and had a return: and for these reasons, they were afraid to go any more.

"In September 1706, Valiere sent over Ralph and Thomas Hatton. He pressed them to go over immediately, though they had no goods; which they refused to do; whereupon some wool was provided, which the two Hattons carried to Calais, with a letter to the commissary. R. Hatton believes the letter did not relate to trade, because the wool was sold to another person. They were seized upon landing, and carried with the letter to the commissary; who went with them to the governor, and did not open his letter till he came to the governor's house.—They were received very kindly by the governor, who made them drink, a thing very unusual. The governor opened the letter, and shewed it to several gentlemen who were there, who all seemed very well pleased with it. The commissary carried them, by the governor's orders, to the best inn in Calais, where they were very well treated at his costs.—The next day the commissary brought a French gentleman to them, and said, 'The governor had ordered that they should carry him to England;' which they did. They brought no letters or goods; and apprehending they should be forced to land in the day time, they desired the gentleman, 'If he had any papers, he would throw them over board;' but he replied, 'He carried all in his head.' The gentleman spoke good English. The Hattons brought him to Valiere, at Mrs. Riches's house, at midnight; who procured a horse for him; and he went away to London that night, without a guide; and Valiere followed the next morning."

"Valiere says, in his examination, 'This man was Stephen Barry, who brought the news of the relief of Turin.' But Mrs. Riches says, 'He told her, that it was his brother in law, who lived at Calais.' And she also says, 'He brought divers papers with him, which he gave to Valiere to read.—About a week after, Valiere returned to Deal; and within a week after that, the French gentleman came back, and brought with him three other Frenchmen, who were shut up privately with Valiere for some time. Afterward they all rode out with Valiere; who, by some means or other, got them over to France. Mrs. Riches says, 'That Valiere told her, that the father of one of those three Frenchmen was as great a man as any in France.'

"In October 1706, Valiere sent the two Hattons, and William Reven, over to Calais, with wool, and a letter to Chateauneuf. Upon landing, they were seized, and carried before the governor: after that, they were taken before a judge, and were accused of having carried a spy into England.

"Marvelles desired them, by order of the commissary, to deny they carried any body; which they did. They were kept in custody 14 or 15 days, till orders came from court to discharge them; and then the commissary sent them away to England, with one letter to Valiere.

"About a month after, Valiere employed Reven, Tho. Fennes, and Francis Baker, of Dover, to go over to Calais, with some wool, and a sack, in which was a box and other things; but their boat was seized at Sandwich by the custom house officers, who took away the wool, but over-looked the sack, which they brought back to Valiere. And about a week after, he sent Reven, Barker, and R. Hatton, with the same sack, some wool, and a letter to the commissary at Calais, together with a young man whom they carried to France. They were seized and taken to the governor's house, as usual; and the commissary came to them, and opened his letters there. They were in a short time dismissed, with brandy, and a letter from the commissary to Valiere.

"Hitherto Valiere had employed other people to go to France upon his account; but, about June 1707, he went himself to Boulogne, with Weaver and Watling, and they carried over one pack of wool. They went off from Hyth. As soon as they landed, they were all seized, and kept in custody, with a centinel upon them. But Valiere had leave to speak, with one Strike, a merchant; who in two days got him released. Valiere told Strike, 'His business was to get news, in order to lay wagers; and that he had a friend at Paris, who would send the news, if Strike would receive it, and transmit it to him.' He pretends he neither wrote nor spoke to the

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commissary, or governor of Boulogne, at this time; but was only encouraged by Strike; and that he then discovered the Dunkirk squadron was ready to sail, and sent the news of it to Mr. Secretary Harley.

"But Watling, in his account of this voyage, says, 'That Valiere, upon writing to the governor, was set at liberty;' and that he afterwards told them, 'He had waited upon the governor, and done the business.' This is confirmed by R. Hatton; who says, That Valiere, upon his return, told him, 'He had been the longer, because he was kept under a guard till he could get a letter delivered to the governor; and then he was set at liberty, and waited upon the governor.'

"Valiere went over a second time in July, with Weaver, Wathing, and Le More, and one pack of wool. The duke D'Aumont was then at Boulogne. He pretends, that at their landing they were more strictly confined than before; but, after some days, the duke sent for them all before him, and asked them many questions concerning their business; and how they ventured over with so small a quantity of wool? Valiere said, 'He was employed by merchants concerned in wagers; and his chief business was, to get the Gazette early over.' The duke was satisfied with this, and promised he should have intelligence; so he did not attempt to get it but from the commissary Collanson. The duke said, 'He was going to Paris; and would take care Collanson should have intelligence, to furnish Valiere with it.'—There were several gentlemen in company with the duke when this was talked of. The duke said, 'It would do no hurt to them, to have the public news sent; for their government was so wise, as to suffer no news to come abroad that would hurt them, whereas they could have intelligence of the greatest matters of importance from England; and gave for an instance, That they had lately certain advice from thence, that the duke of Savoy's design was against Toulon.'—When Valiere told this to Mr. Harley, he seemed to start, and said, 'He wondered they should talk so.' The duke D'Aumont proposed to Valiere, to buy a couple of horses for him, and upon that condition he should have liberty to come when he would: Valiere agreed to do it; and the duke sent his groom along with him. These horses were to be sent by the Boulogne sloop, which was to come to a certain place for that purpose.

"Valiere said, 'He acquainted Mr. Secretary afterwards with this, who approved it, and gave him a pass for the groom, by the name of Tho. Strick.' Valiere adds, 'That, while he was at Boulogne, Mr. Strike gave him privately a letter from his friend at Paris, which told him that monsieur Fourbin, with his squadron of 9 men of war, had orders to pursue the Russia fleet, though never so far Northward or Eastward, and to fall on them if possible; and advised Valiere to insure upon them.' He told this news to Mr. Harley as soon as possible he could; who answered thereupon, 'We have twelve men of war; we fear them not.'

"He says, 'When he was at Boulogne this time, he saw two letters at the commissary's; one, directed, 'To sir John Parsons;' and another, 'To Mr. Caille.' And Strike told him, 'That the duke d'Aumont held a constant correspondence with them.' He acquainted Mr. Harley, 'That Caille held a correspondence with France, and paid money by orders from thence.'

"This is Valiere's account of his second voyage to Boulogne; but Weaver and Wathing say, 'That, when they were all carried to the governor, he took Valiere aside, and had him in private several hours: When they returned for England, Valiere put on-board brandy and champagne; and a man whom they did not know was sent back with them; who, upon landing, went with Valiere to London. Le More was left behind, lest he should betray the groom when he came to England; but le More was put on-board a French sloop afterwards, and set on shore in England.'

"Mr. Jordan says, 'That, when Valiere was sick at Folkestone, in September 1707, he told him, 'That the governor of Boulogne was very rough with them at first, and told them, 'They came over for something else than to bring such a small parcel of wool, which would not bear their charges; threatening them unless they told the truth.' Then Valiere desired to speak with the duke privately; and told him, 'He came to learn news;' which expression much surprized the duke: But Valiere told him, 'That, if he could serve his excellency in England, he would serve him faithfully.' Valiere told Jordan, 'That Le More was threatened with death, being a Frenchman, and one who formerly had a commission in an English privateer; so he fell upon his knees, and begged for his life; and upon Valiere's interest and pleading for him, he was pardoned.' Le More told Jordan, 'That he verily believed Valiere shewed Mr. Harley's pass to the duke at that time.'

"Tho. Hatton says, 'That he lay about 14 days to watch the Boulogne sloop, by Valiere's orders, to put on board two horses, to be carried to Boulogne.' The signal whereby he was to know the sloop, was her hoisting Dutch colours on her maintop. Valiere gave him a letter, which was to be delivered to the captain of the sloop; but she not coming, he returned the letter to Valiere.

"Valiere gives the following account of his third voyage to Boulogne: 'That then he took over no wool; that the duke was then at Paris; but he told the commissary, 'The horses were bought.' He was then supplied with the news without trouble; which at his return, he told Mr. Harley; who was pleased with it, and ordered him money; and directed him to go away immediately, and, at his return, to come to him at Windsor.

"Wathing and Verge, who went with him this voyage, give this account: 'That they were seized at landing; but Valiere was

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at liberty, and went into the town for two or three hours; and then came to them, and told them, 'They must get ready to go away that night.' He was in very good humour, and said, 'He had now catched the old one:' By which they understood, he had heard some good news. They brought back brandy; and landed Valiere at Dimchurch, who immediately went to London.'

"The next voyage, which (as Valiere says) was at the latter end of August, Valiere did not go over himself; but sent Verge, Wathing, and Weaver, who brought him the news of the raising the siege of Toulon, and a packet to Caille, the merchant, in Aldermary Churchyard, which Valiere pretends he burnt, without opening it.

"Wathing, Weaver, and Verge, speak of this voyage in this manner: They say, 'They carried letters from Valiere to the commissary at Boulogne, and some wool. When they landed, they were seized, and carried to the governor, and examined about the ships in the Downs, and were asked several questions as usual. The commissary took them to his own house, and they dined at his own table: The captain of the Boulogne sloop dined with them; and boasted of his having robbed some English gentlemen in Kent. They brought back letters to Valiere, which they delivered to him.'

"Joseph Verge says, 'He believes Valiere to be disaffected to the government; and gave this reason for it: 'That, being about to go over to Boulogne, he said to Valiere, 'Master, if we should bring back the good news that Toulon was taken, he hoped Valiere would give them a guinea or two:' He made answer, 'That, if he would bring the news that the siege was raised, he should be better pleased, and would give them 10 guineas.'

"In September 1707, Valiere sent over Le More, Wathing, and Verge, with a letter to Collanson; but, they being seized as they came back, what they brought did not come to his hands.—Say, 'They were taken by an Ostender in their passage to Boulogne, who took their letters and every thing from them. They came almost naked to Boulogne; and the commissary being absent, his clerk refused to give them credit; but Le More got credit for about 5*l*. After about 14 days stay, the commissary's clerk gave them two letters for Valiere. They landed at Dover, where their boat was seized; and in their going to Deal, they were taken by messengers, to whom they delivered the letters directed to Valiere.'

"Valiere says, 'That what letters he had, he used to send to Mr. Harley; and that, in the three years time he has been employed, he believes he has sent him half a score.' He also says, 'That one Fitzgerald made a proposition to him, to join with him and two other persons, to carry off M. Huguetan.' He did not acquaint Mr. Harley with this; the reason whereof was, that Mr. Harley told him, 'He was not to meddle with any business but what he employed him in.' He says, 'That one Pope and Charles Coxill, both of Lid, received and returned letters to and from France; and he saw Coxill at Boulogne, and that he bought horses for the duke; that Pope was employed to supply the Boulogne sloop with wool and intelligence.' He told Mr. Harley of it; who bid him mind the business he employed him in, and not trouble himself with other matters.

"Johanna Riches says, 'That, towards the latter end of April last, Valiere came to her house at Deal, in the night, and desired a private lodging; and soon after sent her out, to learn what men of war were then in the Downs. She went to the packet-master; who told her, 'There were only three men of war there,' and named them to her. She brought the account to Valiere presently: She has forgot the names of two of them; but verily believes the Royal Oak was one of them; because a midshipman belonging to the Royal Oak was at that time at her house, and borrowed a bottle of sal armoniac of her for his wife, who was then on board the Royal Oak. Upon her naming the ships to Valiere, he set down the names of them in his book; and soon after went out, and stayed so late that no lodgings could be got for him; so she sat up all night, and he lay in her bed. She further says, 'That she believes Bland went over to France about that time.' For which she gives this reason: That Bland and Mrs. Atwood being together at her house, Bland said, 'He hoped he should soon bring them better liquor; and desired her to buy for him some casks for brandy.' She says, 'That Bland went into the Downs, and went aboard several ships there.' Bland told her, 'It was only to get some of the ships to take off his brandy when he came back;' but she looked on that as a pretence only; and that his true business was, to observe what ships were there, and of what value they were. The same thing is affirmed by Mr. Bowles, who gives a very particular account what an impudent and dangerous fellow this Bland is. Mrs. Riches says, 'Bland owned to her, he had been four times in France since the beginning of the war.' Whereas Bland denies that he has been there more than twice.

"Carter says, 'That he was intimately acquainted with Clarke, and always took him to be in the French interest; he believed him to be a papist, for he would never go to church; and always talked favourably of the papists.' Carter often advised Clarke to be more cautious in managing his corresponding with France; for, if he continued to act in so public a manner, the mob would knock him on the head. Carter said, 'The mob had several times come about them, and called them French dogs and rogues, and reproached them for betraying our ships, and giving intelligence to the enemy.'—Valiere would often speak contemptuously of the great men above; and said, 'It was easier to put upon them, than upon such men as Carter.' He said, 'He knew his master Harley very well, and almost any thing would serve

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him.' Once, as Carter and Clarke were riding together upon the beach, they saw 18 ships at sea. Thereupon Clarke said, 'Here is news for my master Harley: I will send him word, here is seen a squadron of French ships.' Carter said, 'What! before you know whether they are so or no?' To which Clarke replied, 'It is all one for that; it will serve my turn as well.'

"In the latter end of 1706, Carter brought to Mr. Whitehall three letters, which he had received from Valiere, with directions to put them into the hands of the men who were going to France; One of the letters was directed to Camus, a merchant at Calais; the second, to the commissary at Calais; the third, to the governor or commissary of Boulogne, he is not certain to which of them. Upon this, he wrote to Secretary Harley, and gave him an account of those three letters; telling him, 'That the wind being now out of the way, he had opportunity, if he pleased, of seeing them, and judging if Valiere dealt honestly or not:' But to this letter he never received any answer. Mr. Whitehall did neither open nor stop these letters, having been before reprimanded by Mr. Secretary for what he had done.

"Mr. Whitehall says, 'That Valiere and Bara were generally known upon the coast by the distinction of Mr. Harley's spies; especially Valiere, who bragged of his being employed, on all occasions, and in all companies. Bara was more cautious, and seldom appeared by day.' Mr. Whitehall said, 'It was his opinion, and the general opinion upon the coast, that they carried more intelligence to France, than they brought from thence.' He says, 'The trade to France was much suppressed, till this encouragement was given by employing so great a number of men; for Clarke did not confine himself to certain persons, but employed every body he could get; by which practice the whole coast is corrupted: So that now a much greater number of officers will be wanting, to prevent the pernicious intercourse with France, than have ever yet been employed.'

"Mr. Bowles gives several reasons, which made him think it necessary to examine Valiere; as, his public boasting of his power to protect any one for going to France; his declaring in coffee-houses, before the magistrates, 'That it was not treason to trade with France, unless one carried warlike stores thither;' and his sending over boats, when his license to remain unmolested on the coast was expired. These and many other reasons made Mr. Bowles conclude, That Valiere was indeed a spy upon us; and that by his means, for these two years last past, France has had intelligence to their advantage, and are like still to have so: For Clark having sent over so many sets of boats, the same gangs will be like to continue to go over on their own accounts. And he believes that this may have been the principal occasion of the loss of several of our frigates upon their cruising stations; as also of the loss of the Hampton Court and Grafton, and so many of our merchant ships.'

"May it please your most excellent majesty; "We, your majesty's most dutiful subjects, the "Lords spiritual and temporal in parliament "assembled, having entered into a serious con- "deration of the said several Reports, have "unanimously come to the following Resolu- "tions thereupon: That it is our opinion, That "the crime of which William Gregg stands at- "tainted is of so heinous a nature, and at- "tended with such extraordinary circumstan- "ces, that it may prove of very pernicious con- "sequence if he should not be made an exam- "ple. And also, That it does plainly appear "to us, as well by what Alexander Valiere and "John Bara have informed against each other, "as by the many examinations taken concern- "ing them, that they were both in the French "interest, and unfit to be trusted or employed "by any persons in your majesty's service: "And that the open and public manner of the "correspondence managed by them with the "governors and commissaries of Calais and "Boulogne, could tend only to carry on an in- "telligence to the advantage of your majesty's "enemies; and that it is highly probable "thereby the stations of our cruisers, the "strength of our convoys, and the times of "sailing of our merchant ships, have been be- "trayed to the French.

"May it please your majesty; It is your "majesty's glory, and the happiness of Europe, "that you are at the head of one of the great- "est confederacies that ever was known in his- "tory; and it is the common concern of the "whole alliance, that your councils should be "kept with the strictest secrecy: But, in the "papers now laid before you, your majesty will "be pleased to observe, that some of your re- "solutions of the greatest moment, and that "required the utmost secrecy, have been sent "to your enemies by the same post they were "dispatched to the allies; that all the papers "in Mr. Secretary Harley's office have, for a "considerable time, been exposed to the view "even of the meanest clerks in that office; and "that the perusal of all the letters to and from "the French prisoners was chiefly trusted to "Gregg, a person of a very suspicious charac- "ter, and known to be extremely indigent. It "is not easily to be known what ill conse- "quences may have attended such negligence. "But we depend upon it, that these matters "being thus plainly laid open to your majesty, "we shall be secured against any dangers of "this nature for the future.—We are further in "duty bound to beseech your majesty, that all "possible methods may be used to put a stop to "that dangerous, and which may soon prove fatal "intercourse between your majesty's subjects "and France, which has of late received so "great an encouragement by the countenance "and protection given to Valiere and Bara; "since, unless that be effectually done, your "majesty's enemies will continue to have what

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"intelligence they please, your majesty's men "of war and merchant ships will be in danger "of being betrayed to the French, and that "most destructive trade of sending wool to "France, which has been with much charge "and trouble interrupted, and in good measure "suppressed, will be revived to a greater de- "gree than ever."

"Here follow the Examinations of Valiere, &c. viz.

"Alexander Valiere, alias John Clark, being examined, saith, 'That he is a native of France, and came over into Ireland in the French regiments sent thither with king James.' He pretends he deserted 14 days before the battle of the Boyne; he was hired as a servant by an ensign in Belcastel's regiment. After the war of Ireland was over, he came into England; and, after having served several persons, he bound himself apprentice to a perukemaker; and when his time was out, he went to live in the city, and followed that trade. He pretended that he entered into merchandizing while the peace lasted, and that he had a part in a ship that was stopped in France; and upon that account he applied to Secretary Hedges, to get a pass for Holland; but it was refused. One Wilmot of Doctors Commons was employed upon occasion of treating about the exchange of prisoners, he named D'Allegre, Gallisioniere, &c.; and Valiere said, 'He was made use of as an interpreter on those occasions.'—He said, 'He gave some account about one Hanam, who carried on a fraudulent trade between Ireland and France; and he does not know but that might be the occasion that Mr. Secretary Harley might first think of him to procure intelligence.' That, in the year 1704-5, Mr. Secretary Harley proposed to him to be employed in getting intelligence. Valiere said, 'He could do it, by the means of one John Bara, who was then in France, and was acquainted with M. Chateauneuf, Commissary at Calais.'—He had about 150*l.* from Mr. Harley in about a month's time, upon account of settling this correspondence, which enabled him to furnish Bara with about 70*l.* and to make a present to Chateauneuf. All the service Bara did was to come over from Calais twice, once in a French boat which Bara hired, and brought only the news of the prince of D'Armstadt's being killed; and once in Bland's boat, which Valiere hired, and then brought the news of Barcelona's being taken.—Bara went back to France, in 3 or 4 days, in the same boat, with only Bland's boy, and (as Valiere pretended) carried from him to Chateauneuf, sattinette for making a bed, a watch, scarlet stockings, and several toys, which was the present afore-mentioned. Bara doing little service, Valiere soon broke with him.—In a short time after, Bara came to England again, and brought over with him a Frenchman, who had been a sea officer. Valiere acquainted the Secretary with this, in September, or October, 1705; who granted his warrant for apprehending of them, but they both made their escape.—In the spring following, Valiere saw Bara at Deal, when he was just come out of the custody of a messenger, having been first apprehended by the magistrates of Dover for coming from France. At that time, he was informed, Bara had got a pass from the Secretary of State.—Valiere sent one Green, of Gravesend, over to M. Chateauneuf; but he also did little service, and was no more employed.—Valiere said, 'He then engaged one Stephen Barry, a druggist in London, who had lately broke; he was sent over to Calais by the way of Holland:' he was directed to tell Mr. Chateauneuf, 'That Valiere's meaning was only to get such news as he thought fit to send, and desire him to convey it to him.'—Once, at the beginning of the year 1706, there was some news sent to Valiere by a French boat; but they sent him word, 'That, if he expected any more, he must send a boat for it, for they would not be at the trouble or charge of sending it over.' Thereupon, about Midsummer, 1706, Valiere employed one John Carter, of Deal, to buy some wool, in order to send an English boat; and then P. Wathing, J. Weaver, and Weaver's apprentice, were sent over, with a pack of wool and a letter, and returned with news, 'That Philip was like to lose Spain.' This he sent to Mr. Secretary.

"About a fortnight after, the same boat went over again, with the like quantity of wool, and a letter to the commissary of Calais.—The next time, Valiere sent Thomas Gosby, Tho. Hatton, and one Steed of Walmer, with wool, and a letter to the commissary; but the commissary stopped out of their cargo 100 livres, for the charge of settling the intelligence.—Then Valiere sent over the two Hattons, with 80 pounds of wool, and a letter to Chateauneuf. They brought over Stephen Barry, who came express to Valiere, with the news of the relief of Turin, and this express caused rejoicings in London the same day. Next he sent over William Reven, with the two Hattons, and some wool, with a letter; but they were detained prisoners, and Chateauneuf stopped Valiere's wool, and he had nothing for it.—Valiere sent once more to Calais, F. Baker, W. Reven, and R. Hatton; but they brought no news, only an order from Chateauneuf, 'That he should send thither no more.'

"About Midsummer, 1707, he went himself to Boulogne, with Weaver and Wathing, and one pack of wool. They were all seized at landing, and all kept in a room, and a centinel upon them; but Valiere had leave to speak with his merchant, Mr. Strike, who in two days time got Valiere released. Valiere told Strike of his business in getting news, in order to lay wagers, and 'that he had a friend at Paris, would send the news to Strike, if he would transmit it to England.' Valiere pretended he did not write or speak either to the commissary or governor this time, but had only encouragement from Strike. Valiere said, 'That he then discovered that the Dunkirk squadron was ready to sail, and sent the news to Mr. Harley.'

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"Valiere went over a second time to Boulogne, with Weaver, Wathing, and Le More, and one pack of wool. The duke D'Aumont was then at Boulogne. At their landing, they were then more strictly confined than before; but after some days the duke sent for them all before him, and asked them many questions concerning their business, and how Valiere ventured over with so small a quantity of wool. Valiere told him, 'He was employed by merchants concerned in wagers, and his chief business was to get the Gazette early over.' The duke was satisfied with it, and promised he should have intelligence; so he did not attempt to get any but from the commissary Collanson.—The duke said, 'He was going to Paris, but would take care that Collanson should have the intelligence, to furnish Valiere with the same.' There were several gentlemen in company with the duke D'Aumont, when this was talked of. The duke said, 'It would do no hurt to them to have the public news sent; for their government was so wise, as to suffer no news to come abroad that would do them hurt;' whereas they have intelligence of matters of the greatest importance from England; for instance, 'That they had lately certain advice from England, that the duke of Savoy's design was upon Toulon.' When Valiere told this to Mr. Harley, he seemed to start, and said, 'He wondered they should think so.'—The duke D'Aumont proposed to him, 'That he should buy a couple of fine horses for him; and upon that condition, Valiere should have liberty to come when he would.'—Valiere agreed to do it; and the Duke sent his groom along with him. These horses were to be sent by the Boulogne sloop, which was to come to a certain place for that purpose. Valiere said, 'He acquainted Mr. Secretary afterwards with this; who approved it, and gave him a pass for the groom by the name of Thomas Strick.'—Valiere said, 'That Mr. Strike gave him privately a letter from his friend at Paris, which told him, 'That Monsieur Fourbin, with his squadron of 9 men of war, had orders to pursue the Russia fleet, though never so far northward or eastward, and to fall on them if possible; and advised Valiere to insure upon them.' He said, 'He told Mr. Harley this news as soon as possible he could;' who made answer thereupon, 'We have twelve men of war; we fear them not.'—The horses being bought, Valiere went over the next time without wool, with Verge and Wathing. The Duke was then gone to Paris; but Valiere told the commissary, 'The horses were bought.' He was then supplied with the news without any trouble; which he told Mr. Harley at his return; who was pleased with it, and ordered him money; and directed him to go away immediately, and upon his return to come to him at Windsor.—Towards the latter end of August last, he sent over Verge, Wathing, and Weaver; and they brought him the news of the raising the siege of Toulon, and a packet to one Caille, a merchant in Aldermary church-yard. Valiere pretended he burnt the packet without opening it. In September last, he sent over Le More, Wathing and Verge, with a letter to M. Collanson; but, they being seized as they came back, what they brought for him did not come to his hands.—Valiere said, 'What letters he had he used to send to the Secretary; and that he believes he has sent half a score in the three years time he has been employed.'—Valiere said, 'There is one Fitzgerald, who made a proposition to him to join with him and two other persons to carry off Hugueton.' He did not aquaint Mr. Secretary Harley with this. The reason, he said, was, that Mr. Secretary told him, 'He was not to meddle with any business but what he employed him in.'—Valiere says, 'When he was at Boulogne the second time, he saw two letters at the commissary's, one directed to sir John Parsons, the other to Mr. Caille; and Strike told him, 'The duke D'Aumont held a constant correspondence with them.' He acquainted Mr. Secretary, 'That Caille had a correspondence with France, and paid money by orders from thence.' He said, 'That one Pope and Charles Coxhill, both of Lydd, received and returned their letters.' He said, 'he had seen Coxhill at Boulogne; and that he brought horses for the duke, that Pope was employed to supply the Boulogne sloop with wool and intelligence.' He says, 'he told Mr. Secretary Harley of it, who bid him mind the business he employed him in, and not trouble himself with other matters.'—Valiere said, 'that he told Mr. Harley, that he knew that Bara had 500 livres given him in France for service to the king.' He said, 'he knew this to be fact.'"

Barbier's Examination.

"Daniel Barbier, living at the Mug-house in Long Acre, being examined, saith, 'That he has known Alexander Valiere, now commonly called John Clerk, ever since the year 1690; he deserted from the French about the time of the battle of the Boyne, or was then taken prisoner, he knows not which. He had on his French regimental cloaths, when the examinant first saw him; he came over with the 7,000 men sent from France to assist king James; he was not taken into the regiment, but was a servant to Mr. Doge, an ensign in captain Rochfort's company in Belcastel's regiment, where he continued about two years. After Ireland was reduced, he came over with the examinant's brother into England, and served some time as a drawer in a tavern, and afterwards served several persons, and at last put himself apprentice to one Guyon, a perukemaker in Long Acre; and after his time was out, worked as a journeyman in the city, and married a midwife's daughter behind the Exchange, and there lived by making periwigs. He was looked upon as a papist, and, in his discourse with this examinant and others, he always seemed to talk for France and that interest. The last time the examinant saw him was the last thanksgiving-day, when the queen

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went to St. Paul's. He told the examinant, 'he was just come out of the messenger's hands, and that he had now got a better trade than peruke-making.' The examinant said to him, 'have a care; you have not been in custody for your good deeds. Beware of Tyburn.'

Guerrier's Examination.

"Matthew Guerrier, peruke-maker in Birchin Lane, being examined, saith 'that he first came to know Alexander Valiere immediately after the battle at the Boyne, at which time Valiere deserted from the French service; he did not list himself, but was footman to Mr. Doge, an ensign in captain Rochefort's company in Belcastel's regiment.' After the war was ended, the regiment quartered at Kingsale; and Mr. Doge, at his request, gave him leave to quit his service; at which time the lieutenant colonel of the same regiment offered to take him into his company, and proffered him 5 or 6 guineas; but Valiere refused it, by which the examinant and others were more confirmed in their opinion, that he was a coward. The examinant did not see Valiere any more till about twelve years ago; and some while after that they lodged and worked together at Jacob's Coffee-house in Threadneedle street, for about two months; and then parted, upon a suspicion that the said Valiere was a papist, and not an honest man either in his dealings or conversation; and one Dubellier, who is a Roman Catholic himself, did since tell him, that Valiere is a papist; for which reasons, the examinant has not kept up any acquaintance with him ever since.

"After Valiere was taken into custody, one Monteau, a weaver in Spitalfields, told the examinant, 'That the said Valiere was by all his acquaintance suspected to be a person disaffected to the government, and would be often talking against it in public company; upon which account he once quarrelled with Valiere, at Jacob's Coffee-house, some time ago, and threw a glass of beer in his face.'

Bara's Examination.

"John Bara, of Stepney, in the county of Middlesex, surgeon, saith, 'That he is a native of France, was surgeon-major to Du Bart during the last war, except the two last years, when he left Du Bart upon a dispute between them concerning a prize.—He came back to Dunkirk; and upon examination of the quarrel between him and Du Bart, he was acquitted; and while he continued at Dunkirk, had the opportunity of assisting several French officers and soldiers in the English service, who were brought prisoners to Dunkirk, who promised to help him in his profession, if he would come over to England, which he did as soon as the peace was made. He became first acquainted with Valiere by the means of a master of a ship belonging to St. Valery. This acquaintance was continued by the means of one Dormicour, who was come over from Dunkirk for debt, and was a friend to both of them. Dormicour being about to return to France, Valiere proposed to him (as he told Bara) the sending over the Paris Gazette sooner than by the way of Holland; which Dormicour promised, if he could have leave on the other side. Afterwards Valiere made the same proposal to Bara; and Bara answered, 'That, if he could get a protection for his person, he would do it.' Valiere told him, 'He had a sufficient authority for him to go to France;' and he produced a paper, sealed, with secretary Harley's name to it; and he and Bara went to Mr. Secretary Harley's office, where Valiere obtained a pass for him to go to Holland. He likewise gave him a note for 3*l.* which was never paid, and also a hook and chain for a watch, which was to be a token to Nerinx at Rotterdam, to pay him 30*l.* which he paid him. From Rotterdam he found means to get to Dunkirk, and from thence to Calais, and continued between those two places till October 1705. He wrote constantly to Valiere, by the name of Clerk, by the way of Holland, during this time.—Being asked, 'What news he sent?' He answered, 'What he could pick up.' He received 30*l.* more about the 4th of October. While he was at Calais, Bland came over, with two packs of wool consigned to Chateauneuf, from Valiere; he stayed there nine or ten days. About the 4th of October, Bara came over in the boat he had bought, and brought with him a Paris Gazette, which he delivered to Valiere. In 9 or 10 days, Valiere sent Bara back to Calais, with Bland and his boy, without any goods, only with an open letter to Chateauneuf, for 17 ankers of brandy; they staid there 3 weeks, and the commissary bore their whole expence.—He continued at Margate about a week, and went back with Bland's boy, and they were driven to Newport; where being taken into custody, they were released upon Bara's writing to Chateauneuf, and his writing to the governor of Newport in their behalf.—At this time Bara carried with him 36 yards of sattin, 2 pieces of stuff, 2 pair of stockings, and 2 cases of knives; the stockings only were a present to Mr. Chateauneuf; the rest of the things were for Bara's subsistence, Valiere having, as he then said, no money to give him. He stayed at Calais 2 months; and then came to Margate, and brought with him one Corselli, a merchant, with whom he went to London, and told Valiere, 'That he was come over with him;' and he has been since informed by Bland, that Corselli was sent back by Valiere by the way of Holland. Bara durst not stay in London, finding there were messengers out from Mr. Harley to seize him, which were procured by Valiere, and with which he charged Valiere. He stayed at Deal 7 weeks, and at Dover 9 or 10 days; from whence he found means, by an exchanged prisoner, to send a letter to Chateauneuf, to desire him to send over a boat for him; which he did accordingly, and he went to Calais. Bara drinking one night with Chateauneuf, and complaining of his usage from Valiere; the commissary advised him to return to England, telling him, 'He

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was sure Valiere had a protection from Mr. Harley; and therefore, Bara acting by Valiere's orders, it was impossible he should suffer by the government; and Valiere was a great rogue, if he did not protect him. Bara returned about the 27th of April, and wrote to Mr. Harley; but, before he had an answer, he was seized at Dover by the magistrates; but after four days he was carried to London by Mr. Harley's warrant; and Bara owned to him, that he had been in France, and that he was sent by Valiere. He continued in custody 21 days. After that time, Mr. Harley sent for him, and told him, 'That he had prevailed with the queen to pardon him; but that he must go immediately to Dunkirk, and see what naval preparations were there; and bid him say nothing, and he should make use of him.—He performed this voyage in an open boat from London, and returned in 7 days; and brought word, 'there were but two men of war, and they both unrigged; and that Fourbin was gone after the Russia fleet northwards.' He called to mind also, that, in October 1706, he was sent by Mr. Harley for the Paris Gazette; and he brought it accordingly. Bara says, 'He was arrested at Deal (as he thought) by Valiere's means, who hindered him to have a boat. He sent word of this to secretary Harley who wrote to captain Whitehall, desiring him to help Bara to a boat; but Mr. Whitehall would not do it: so Bara came back, and complained to the Secretary of it.—Bara said, 'He was at Calais, with Chateauneuf, about six weeks before the Hampton Court and Grafton were taken.' The Commissary told him, 'There was a great fleet in the Downs, which were to be convoyed by some men of war; and that they were equipping at Dunkirk nine men of war to intercept that convoy; and that he had received the most pressing orders to speed away the seamen to Dunkirk.' Chateauneuf said, 'He hoped this year they should have their revenge, and that the ships should not get out of the Downs so easily as they had done.'

"At this time Chateauneuf told him, 'Valiere had played him a trick;' And then shewed him a letter of Valiere's; part of which he read (but he would not let him see it all), wherein Valiere told Chateauneuf, 'That he should have a care of Bara, for that he was employed by the government in England.' He stayed but three days at Calais, and came directly to Mr. Harley, and told him what he had heard about the Dunkirk squadron; but did not at that time take any notice to him of what had been shewed him in Valiere's letter; having several times before acquainted him, 'That he trusted Valiere too much, and that Valiere was not the man he took him to be;' but Mr. Harley never answered him any thing to that matter.—When he told Mr. Harley about the Dunkirk squadron, he seemed not to believe it; but when those ships were taken, Bara went to Mr. Harley, and asked him, 'If he did not believe it now?' To which Mr. Harley replied, 'He remembered Bara had told him of it."

Mercurii, April 28, 1708, hitherto examined by us, STAMFORD. HERBERT. SOMERS.

Bland's Examination.

"William Bland, of St. Katherines near the Tower, waterman, saith, that in August 1705, being at Margate, he met with one Clerk (whose true name he has been since informed is Valiere); and after some time drinking together, Clark proposed to him to go to France: and told him 'He need not fear; for he had a sufficient authority to protect him from any mischief might arise from his going over.'—Bland agreed with him to go over for 15*l.* to Calais; which he did. He carried over two bags of wool, which was consigned to Chateauneuf, the commissary at Calais, and a letter to him. When he landed at Calais, he was seized, and carried to the governor and also to the commissary, to whom he gave the letter.—He was after carried to the inn, and had a dinner provided for him and the boy he had with him; and falling sick there, a doctor was sent to him, and care taken of him, and used with much civility, and the commissary paid all the charges. He returned, and took with him 8 or 10 ankers of brandy and a letter for Clerke, and delivered the letter and brandy to Clerk.—He said farther, 'That when he came to Calais, his boat was much out of repair; and the commissary took care to have it put in very good repair, out of the king's stores, without any expence to him.'—The next time, which was the September following, he went over to Calais, which was also upon Clark's account. He carried nothing over, but Bara, and a small parcel which belonged to Bara. Clark wrote a letter, which he gave to Bara. When they landed, Bara left him and went directly into the town. Bland went to the former inn; his charges were paid as before. He went often to the commissary's house, and was made much of. After about a week or ten days stay he brought back Bara, and 17 ankers of brandy, and a letter from the commissary for Clark, which he delivered to Clark at Margate.—Bland went himself to London, leaving his boat and his boy at Margate; and Bara took the boat and boy and went to Ostend. He pretended that he was not at Mrs. Riches in April last, but was there the latter end of May. He denied also that he went into France at any other times since the two voyages above-mentioned. He appeared to be a man of a very ill repute."

Morilion's Examination.

"Daniel Morilion, of Deal, being examined saith, That he first became acquainted with Clark at one Baillie's house in Deal, about July 1706. Clark then proposed to him to go to France, and bid him take in what goods he pleased to carry thither; and Clark would give him a letter which should protect him. Upon the credit of this, he and one Verge went over, and

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carried with them about 114lb. of combed wool; and also a letter directed to Mr. Chateauneuf the commissary of Calais, and another to one Camus a merchant there, who was to furnish them with brandy in exchange for the wool. Upon their arrival at Calais, they were seized by the guard and carried to the governor, who examined them about the Dutch transport ships, and to what place they were bound. The governor returned them the letter, to carry to the commissary; who sent them to Marveille's house, an inn; and told them, 'They must not depart from Calais till they had his packet;' which he afterwords sent to them, directed, 'To John Clark, merchant, of Bristol;' together with a pass, to secure them against privateers.—Upon their return, and delivery of the packet to Clark, he bid them get more goods as fast as they could, and go over as often as they could, though he should be out of the way, so that they could not have letters from him. Accordingly, in August, they went over the second time with wool; but had no letter. When they came to Calais they were carried to the governor who asked them several questions, and in particular, 'How they durst venture without a letter?' the commissary gave them a packet for Clark; but the custom-house boat meeting them in their return they threw the packet over-board, accordingly to Clark's general direction; which was, 'Whenever they thought themselves in danger of being taken by any English vessels, they should throw their letters over-board.' When they saw Clerk, they told him, 'They had thrown the packet into the sea.' He said 'He was sorry they were forced to do it.'—Morilion upon his return discovered all those particulars to the mayor of Deal; and soon after he and Verge were sent for by messengers, and carried before the two secretaries of state, where, being examined, they acquainted them with all the particulars that passed at Calais, and of their throwing the packet into the sea according to Clerk's order. Upon this they were remanded to the custody of the messengers, where they remained four months, and at last were discharged out of custody without any further examination. Clark used to brag, in all companies, 'That he feared no man;' and talked very boastingly of his protection and power from Mr. Secretary Harley.'

Verge's Examination.

"Joseph Verge, of Deal, being examined, saith that he became first acquainted with John Clark at one Baylie's house at Deal.' He told them, 'That they might go to France as often as they could get goods; and he would give them a letter which would protect them. Verge went to Canterbury to buy goods; and then he, Morillion, and Bayly, went to Calais in July 1706. As soon as they landed they were carried to the governor, who asked them, 'What men of war and merchant ships were in the Downs;' and particularly inquired about the Dutch transport ships, if they knew to what place they were bound, and if they were intended for a descent upon any part of France.—The governor sent them, with the letter from Clark (which they had shewed to him), to the commissary, to whom it was directed; who stopped them two or three days, and then sent them back with a packet, directed, 'to John Clerk merchant of Bristol.' They sold their goods to one Camus, to whom they brought a letter from Clark, but had no letter from him for Clerk. They landed the goods near Birchington, about midnight, and carried the packet to Clerk, at Margate. Clerk asked them, 'If they would go again:' they said, 'they could not till their goods were sold.' Upon that, Clerk disposed of the goods for them, and gave them the money in ten days. Then they went to Calais again, without any letter; but with such goods as they could get upon their own account. They were carried to the governor, and examined as to what ships were in the Downs; and the commissary asked them, 'If they brought a letter from Clark?' They said, 'The Dutch transports were sailed, and that they had no letter.' They said, 'Clerk told them, they might go, though they had no letter.' They brought back brandy, and a packet for Clerk from the commissary; and the custom house boat coming up with them, they threw their packet over board.—Verge was carried before the mayor of Deal, where he denied he had been in France, but Morillion confessed it. The examinant and Morillion were both sent for, by messengers, and examined by the two secretaries of state, and told them the whole matter. The examinant was remanded to the messengers, where he lay 4 months, and then, without further examination, was discharged.—When he was in prison at Deal, Clark came to him and bid him not fear, he would take care he should come to no harm.—The very same night he came home to Deal, Clark came to him, and proposed to him to go over to France again; but he refused to go, being sick at that time.—In July, or August, 1707, Clerk sent for him again, and proposed to him to go to France; and shewed him, at several times, letters subscribed R. Harley. The same night John Clark himself, Ph. Whatton, and Verge the examinant, went off from Deal beach, and landed at Boulogne the next morning. They were seized when they landed; but Clark went to the governor, and about two hours after returned, and bid the men refresh themselves, for he would go back that night. They brought back brandy, and landed Clark at Dimchurch; and he went away immediately for London.—In September they went over again from Hyth to Boulogne, with about 240lb. of wool, and a very large packet of letters, directed to the commissary; upon their arrival, they were seized, and carried to the governor, and examined about the ships in the Downs. The commissary took them to his own house, and treated them at his own table, where the captain of the Boulogne sloop dined with them,

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and boasted of his having robbed some English gentlemen in Kent.—They brought back letters for Clark, and landed at Dimchurch, and gave the packet to Clerk.—Some time after, Clerk sent for Verge and Watton to Dover, and there they took in Le More and about 30lb. of wool, and had letters from Clerk, and intended to go for Boulogne: but were taken by an Ostender, who took from them all their clothes, and all they had. In Verge's hat was Clerk's packet, which the Ostenders took from him. They could not get back to England, because of the wind. They went to Boulogne in a manner naked; but, the commissary being gone to Paris, they could not get credit from his clerk; but Le More prevailed with one Mr. Strick, a merchant, to give him credit for 5*l.* The commissary's clerk deliverd two letters to them for Clerk. They put into Dover pier, where their boat was taken; and they being taken by messengers, delivered to them the two letters directed to Clerk, which they had from the commissary's servant.—He said, 'he believed Clerk to be disaffected to the government, and gave this reason for it; that, being about to go over to Boulogne, he said to Clerk, 'If we should bring back the good news that Toulon was taken, he hoped he would give them a guinea or two.' Clerk made answer, 'That if he would bring news that the siege was raised, he would be better pleased and would give them 10 guineas.'"

Weaver's Examination.

"John Weaver, of Deal, mariner, being examined, said, 'That John Carter, of Deal, brought him first acquainted with John Clark, about June, or July, 1706.' Clark shewed him a paper, with a seal, and the name of Mr. Secretary Harley, and said, 'he was employed by him;' which Weaver believed the rather because Clark had been before examined by the magistrates, and was set at liberty.—Clark proposed to him to go to France; and Philip Watton and he went in a small Deal yawl to Calais, with a parcel of wool, and letters to the commissary M. Chateauneuf, and one Camus, a merchant. As they landed, they were seized by a guard, and carried immediately to the governor; from thence to a house, whither the commissary of Calais came to them, to whom they gave the letter which they brought from Clark. They stayed there 4 or 5 days, and then came back, and brought with them brandy, and a letter from the commissary to Clerk; which, upon their return they delivered to him.—In a few days after, they were sent over again to Calais, with a letter to the commissary, and also some wool; and they were treated as before. And when they returned, were charged with letters to Clark which they delivered to him. After this, Clark and they disagreed for some time.—But, in June 1707, Clark proposed to Weaver and Watton to go over again into France; and Clark and they went over to Boulogne. Upon their landing, they were all three made prisoners; Clark had his liberty in two days, the others were detained prisoners 8 or 9 days; and then they all returned for England.—In six weeks after, Weaver, Watton, Clark, and Le More, went over again to Boulogne. They were confined all, except Clark; afterwards they were all carried to the governor, who treated them civilly; Clark was taken by the governor into another room, and stayed with him privately about two hours. When they returned for England, Clark put on board brandy and Champagne wine; and a man whom they did not know was sent back with them.—In Sept. 1707, Weaver, Watton, and Verge, made another voyage to Boulogne, and carried wool, consigned to the commissary.—They were not made prisoners at this time, but were carried to the commissary's house, and dined with him; and that afternoon they returned, with a packet of letters from the commissary to Clark, and landed at Hythe."

Wathing's Examination.

"Philip Wathing, of Deal, mariner, being examined, saith, 'That, in June 1706, he became first acquainted with John Clark; the said Wathing being then lately returned from France, where he had been a prisoner. Clark proposed to him to go to France again; and said, 'he had authority to bear him out; for he was used to send people to France, upon the account of the government.'—After taking some time for consideration, the examinant and one John Weaver agreed to go over; whereupon Clark and John Carter met them at an alehouse, Clark was to give them 5*l.* a-piece. Weaver desired to know, 'What they were to carry?' Clark said, 'Some small matter of wool, and such letters as he should send to the commissary of Calais, and to bring back whatever the commissary should deliver to them.'—The examinant saith, 'That Clark and Carter put two bags of wool on board a small Deal yawl, and Clark gave him a letter to Chateauneuf; and they went from Hythe, and they arrived at Calais in about four hours. They were seized at their landing, and carried before the governor, who inquired, what news in England, and about the ships in the Downs; and asked several questions, what strength the English had in the Streights. They told the governor, 'They had a letter for the commissary;' the governor sent them to him, and they delivered the letter; and about three or four days after, the commissary came to them himself and brought them a packet of letters to be delivered to Clerk, which Weaver delivered to Clerk upon their return, and he went away immediately to London.—In July Clerk told the examinant, 'they must go again;' and ordered them to Hythe, where they took in three packs of wool, and had a letter to the commissary. They were seized at landing, and carried first to the governor, and after, by a guard, to the commissary's, to whom they delivered the letter. But the Dunkirk galleys being then in the road, they were kept under a guard for 10 or

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12 days, and not suffered to return till they were gone: then they returned to Margate, and gave the packet to Clark.—The examinant saith, that Clark told them, 'he could have other men for less money;' and they refusing to go for less, Clark and they parted for that time.—The examinant said farther, 'That about June 1707, he and Weaver went to Clark, for some money he owed them; and they agreed with Clark to go for France again, and Clark went with them himself.' They went off from Hythe, and sailed to Boulogne, where they were all taken into custody. But Clark upon writing to the governor, was immediately set at liberty, and afterwards told them, 'That he had waited on the governor, and had done the business;' and then they were all set at liberty, and returned to Margate, and brought with them 7 or 8 ankers of brandy. Philip Wathing saith, 'That, in July following, he and Weaver went over again from Hythe, and carried Clark and one Le More.' When they arrived at Boulogne, they were seized: but Clark writing to the commissary, he was released; and afterwards all of them were carried to the governor, who took Clark from them, and was alone with Clark 3 or 4 hours. The next day they came away and brought one James, a Scottishman, with them, and landed them at Hythe. They scrupled to take in this man; but Clark said, 'he would bear them out.'—In August, Clark went with the examinant and one Verge from Deal to Boulogne; they then carried with them nothing but provisions. When they landed, Clark was at liberty, and went into the town for 2 or 3 hours; and then came to them, and told them, 'They must get ready to go away that night.' He was in very good humour and said, 'he had now catched the old one;' by which the examinant and Verge understood he had heard some good news. They landed at Hythe the same night.—The examinant says, 'That in September, he Weaver, and Verge, went again, by Clark's order, and carried letters to the commissary of Boulogne, and four bags of wool.' When they landed they were carried to the governor and being asked several questions, as usual, they were sent to the commissary's, and dined with him at his own table. In 3 or 4 days after, they were dispatched with letters to Clark, which they delivered to him.—Clark's general directions to them was, 'That if they met with English or Dutch ships, they were to throw their letters over-board; but if they met French ships, they might shew their letters.'—The examinant farther says, 'That, in the latter end of September, he, and Verge, and Le More went over again; but near the French coast, they were taken by an Ostender, who stripped them, and plundered them of every thing. However, they went on to Boulogne, but, the commissary being gone to Puris, his clerk would give them no credit; but Le More got some credit in the town. They were kept at Boulogne about 14 days; and then the commissary's clerk brought them two packets for Clark, with which they set out, and landed at Dover: but, in their going from thence to Deal, they were seized by the messengers, and their letters taken. Whilst they were at Boulogne, they were shewed an Englishman, who came from Rumney Marsh.—The examinant further says, that the second time he went to Calais, their boat was taken by the Boulogne sloop, and carried before the governor; who released them as soon as they told him they were employed by Clark. The examinant further says, that the first time they carried Le More over, they did not bring him back with them, because (as Clark said) he might not see the said James."

R. Hatton's Examination.

"Ralph Hatton, of the port of Hythe, says, he was first brought acquainted with one John Clark by the means of John Carter, of Deal; who told him, Clark was employed by the government to get news, which he was to have from the commissary of Calais.—The first voyage he made upon Clark's account was about September 1706, when Clark pressed him to go over immediately, though he had at that time no goods; but Ralph Hatton refused to go without goods; whereupon, about eighty pounds of wool was provided, which he and his brother Tho. Hatton carried to Calais, together with a letter for the commissary of Calais, Monsieur Chateauneuf: he believes the letter did not relate to trade, because the wool was sold to another person. He landed at Calais, and was seized by the soldiers, and after carried to the commissary, to whom he delivered the letter. The commissary carried Hatton to the governor, and he did not open his letter till he came to the governor. Hatton was received very kindly by the governor, who made him drink, which was a thing very unusual. The governor opened the letter, and shewed it to several gentlemen then present, who seemed pleased with it. The governor ordered the commissary to carry him to Merveille's the Golden Lyon, the best inn in Calais; where the commissary treated his brother and him very well all the while they stayed, at his own cost. The next morning the commissary brought a French gentleman to them, and said, 'the governor had ordered, that he should be carried over to England in their boat.' They did accordingly take on board the gentleman; but no letter or goods were sent by them. The gentleman spoke good English; he did not own what his name was. During the blowing weather, Hatton said to him, 'If he had any papers about him that would do himself or them hurt, it was best to throw them over-board, because they might be forced on shore in the day-time.' The gentleman said, 'he had none, but what he had was in his head.' They carried the gentleman to Clark, who was then at Mrs. Riches', not well; and Clark sent him to London that night, and followed himself the next day. This gentleman came back to Deal in three weeks, and

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would have had Hatton carry him over to France; but he refused. This gentleman said, 'he came in 14 hours from Paris to Boulogne, and went aboard the Boulogne sloop; but the sloop was forced to Calais by the weather, and so he came in Hatton's boat.'—About the middle of October, Clark sent to Calais Ralph Hatton, Tho. Hatton, and William Reven, with one pack of wool, and a letter directed to the commissary Chateauneuf. When they came to Calais, they were seized, and taken before a judge, and were accused for having carried over to England a spy. Merveille, by order of the commissary, desired them to deny the fact; which they did. They were kept in custody ten days, or more, till they could hear from court, and by order from thence they were discharged; but forbid to carry over any persons whatsoever. At this time, they brought over from the commissary letters for Clark, which they delivered to him. About the middle of December, he, and William Reven, and one Francis Baker, were sent over to Calais by Clark, with a pack of wool and a letter to the commissary. They were received there as usual, and carried to the governor; and the commissary did not open his letter till they came to the governor. Upon their return, they brought a packet of letters for Clark, which was carried to him by Reven. Hatton had no further dealings with Clark, till about June last, when Clark hired a boat of Hatton; and Clark, Weaver, and Warphin, went over in that boat to Boulogne with wool, and returned about ten days after.—Upon his return, Clark told Hatton, 'He had been out the longer, because he was kept under a guard till he could get a letter delivered to the governor, and then he was set at liberty; and then waited on the governor.'—When Clark came from Boulogne, he brought papers along with him, and went away immediately for London.—In July, Clark came to Hythe and lay private there till the boat came. As soon as the boat came, Clark, Wharphin, and Weaver, and William Le More, went on board for Boulogne; they returned in about a week's time, and brought with them a man, called James, who, they said, was the duke at Boulogne's groom, who went away with Clark to London.—Before Clark went, he gave a letter to Hatton, with orders to watch at a certain place on the coast for the Boulogne sloop, which he was to know by the signal of hoisting Dutch colours on her main-top; and he was to give the letter to the captain of the sloop. But the sloop did not come; so when Clark came from London, in August, he had his letter.—He sent his boat twice (he believes) to Boulogne, to inquire after the sloop, there being two horses kept privately to be put on board her.—This examinant further saith, 'That, when the groom was brought over in July, Le More was left behind.' Clark told the examinant, 'he had him detained there, lest he should betray the groom when he came to England.'"

Tho. Hatton's Examination.

"Thomas Hatton, being examined, declared 'That he had been acquainted with John Clarke about a year and a half, Clark said, 'He was employed by the government, and might send to France when he pleased.' In June 1706, he helped to get wool into the boat. He said, Clark made his business very public. In August 1706, he was employed by Clark and sent over to Calais with Steed and Gosby; and carried 200lb. weight of wool, together with a letter for M. Chateauneuf. Upon landing, they were carried to the governor, and well received. He asked them, 'What news in England, and what ships of war and merchant-men were in the Downs?' The commissary shewed his letter to the governor, and then carried them to Marveille's house. They had not leave to go till letters from Paris came (as he was told), so their stay there was about 5 or 6 days. They brought back brandy, and a packet of letters for Clark.—Thomas Hatton said further, 'That in September, at Clark's request, he and his brother made a second voyage to Calais, and carried letters for the commissary; and they were carried to the governor as before; and when they came away the commissary gave them a letter for Clark; and Marveille told them, 'That the commissary said, they must take a gentleman aboard and carry him to England;' which they did accordingly.'—The examinant further says, 'That, in October 1706, he went over with Revens and his brother Ralph Hatton to Calais, where they were seized, and carried before a Judge, upon account of a man brought from France to England, in a former voyage, by his brother and himself.'—Marveilles told them, as from the commissary, that they must deny to the Judge, that they carried over any body, though the man was put on board by the commissary's order.—After an imprisonment of several days, they were discharged, and sent away for England with a letter to Clark only. This examinant says, 'He helped about 8 several times to put wool on board divers boats for Clark; and he lay about 14 days to watch for the Boulogne sloop, in order to put two horses on board to be sent thither.'"

Reven's Examination.

"William Reven, of Deal, mariner, being examined, declareth, 'That, in October 1706, when John Clark lay at Mrs. Riches' house, she engaged him to go over to France for Clark. Clerk shewed him the secretary's pass, and said, 'he had a license to send any body to France.' The examinant went over first with the two Hattons. When they landed, they were seized, and carried before the governor; and after that, they were examined before the admiral, or the judge, at Calais, for having carried over a man for England. They were kept in custody 14 or 15 days, till orders came from Paris to discharge them. Then the commissary dispatched them away; without any thing but

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one letter to Clark, which they sent to him. The examinant further says, 'That, about a month after, Mr. Clark ordered him, Thomas Finnis, and Francis Baker, of Dover, to bring their boat to him to Margate; which they did; and there they took in some wool, and a sack with some things in it. They were seized at Sandwich by the custom-house officers, and their wool taken; but they did not meddle with the sack, which they brought back to Clark at Deal. And about a week after, the examinant, Baker, and Ralph Hatton, were ordered to take in some wool, the same sack, and a letter, and to carry them to Calais; which they did, and delivered the sack and letter to the commissary. At the same time they took in their wool, they also took in a young man, whom they carried to France. In a short time they were dismissed from Calais, with brandy, and a packet of letters from the commissary to Clark. The examinant says, 'They were usually carried first to the governor's house, and the commissary came to them there.'"

Johanna Riches' Examination.

"Johanna Riches, of Deal, victualler, being examined, declared, 'That John Clark did much frequent her house;' he lodged there about six months. The first time he came to her was, to enquire how he might vend his brandy to the best advantage; he proposed to her, to make a venture with him; and told her, 'That, for 50*s.* laid out in wool, she could have 4*l.* in brandy, without any risk; for the government, by whom he was employed, had agreed to pay the prime costs.' She ventured once with him; but never had any return from him. —There was a Frenchman brought to Clark at her house, late in the night, who had divers papers with him; and he gave them to Clark to read. Clark pretended it was his sister's husband; and that he lived at Calais. Clark sent the examinant to get a horse for the Frenchman immediately; and, about 1 o'clock, the Frenchman began his journey for London, without a guide. Next morning Clark went after him.—Johanna Riches further said, 'That about a week afterward Clark returned to her house; and about a week after that, the Frenchman returned to her house, and brought a box with him, which Clark opened; and after he had viewed and perused what was in it, being three or four papers and a parchment with a seal to it, and other things, he fastened the box, and sealing it in several places with his own seal, then gave it her to lock up in some safe place. Some time after, the said Clark sent one Revens and another with some wool, and with this box, for France; but the boat was taken, and the wool was seized by the custom-house officers: but, the boatmen having put their victuals into the same sack where the box was, no notice was taken of the box; and Revens brought it back again to Clark; who gave it to the examinant, requiring her to lock herself up, that nobody might see what she did; and then to open the box, and dry what was in it: which she did; and afterwards Clark sent Reven to Calais, and gave him the box: and, upon his return, he told the examinant, 'He had delivered it at Calais.' When the Frenchman was at her house, he brought thither three other Frenchmen; and they were some time together privately with Clark in his chamber; and afterwards they rode out altogether; and the next day Clark came back. But she never saw the Frenchmen after. Clark was often in drink, and was then very foolish; and used to boast, 'He had the heads of the nation on his side; and that nobody was capable of the business he was engaged in but himself; and nobody durst meddle with him.'—Johannah Riches further says, 'That, about three quarters of a year ago, towards the latter end of April (the same night he agreed with Weaver and Waffin to go to Calais), he came to her house in the night, and desired a private lodging; and then sent her out, to learn what men of war were in the Downs. And she went to the packet-master, who told her, 'There were only three men of war there,' and named them to her. She brought this account to Clark presently. She has forgot the other names; but she verily believes the Royal Oak was one of the ships; because a midshipman belonging to that ship was at that time in her house, who borrowed a bottle of sal armoniac of her for his wife, who was then on board the Royal Oak.—Upon her naming the ships to Clark, he set them down immediately in his book; and soon after went out, and stayed so late, that he could get no lodging, but lay in her bed, and she sat up all night. The examinant said, 'She believed that one Bland went over to France about that time: For, Bland and one Mrs. Atwood being together at the examinant's house, he said, 'He hoped he should soon bring them better liquor;' and then ordered the examinant to buy for him two half ankers and three runlets. She says, 'That Bland told her, he had been four times in France since the war.' The examinant said further, 'That Bland went into the Downs, and went aboard several ships in the Downs. He told the examinant, 'It was only to get some of the ships to take off his brandy when he came back:' But she looked upon that as a pretence only; and that his true business was, to observe what ships were there, and of what value they were. The examinant further says, 'That Clark told her, 'That the father of one of the three Frenchmen, which he brought to her house, was as great a man as any in France.'"

Hartley's Examination.

"John Hartley, about 15 years old, apprentice to John Weaver, being examined, saith, 'That he went over twice, with his master and one Waffing, to Calais, upon Clark's account, When they brought them to the governor of Calais, he asked them, 'What ships were in the Downs; and whither they were bound?' In the second voyage, they met with a small

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French privateer; who inquired of them, 'What men of war and merchant ships were in the Downs?' And Watling and Weaver (as the examinant believes) told them, as well as they could, all they knew of the men of war and merchant ships, where they were designed, and when they were to sail; and, having given this account to the privateer, he suffered them to go on for Calais."

Carter's Examination.

"John Carter, of Deal, butcher, being examined, declared, 'That he became acquainted with one John Bara about the 27th of March 1706, who did use to go over from England to Calais, and return in French boats. About that time he was desired to provide a boat to carry over Bara; but afterwards, the French sloop coming, Bara went over in that. Bara stayed about a month, and then returned in a French boat (as Carter believed;) and, as Weller told the examinant, brought brandy and letters over with him. He was seized at Dover by Mr. Whitehall, and examined before the magistrates: but soon after was sent for to London by Mr. Secretary Harley's order (as the examinant was informed;) and in about 4 or 5 days Bara returned to Deal; and, pulling out of his pocket a handful of guineas, shewed them to the examinant, and told him, 'See what I have got by being seized at Dover, which was by your means.' Clark spoke very ill of Bara to the examinant; and persuaded him not to have more to do with him, but only with Clark himself. The said Carter declared, 'That he acquainted Mr. Whitehall with Clark's proceedings: who bid him take notice of all that Clark did, and for that purpose to go on with him. After that, he assisted Clark in getting wool for him, and procuring men for him to go over to France; and also received Clark's letters for him.'—The said Carter declared, 'He saw a packet of letters, that came from London, directed to Clark; and saw Clark open the packet, which, Clark said, came from secretary Harley; and he shewed him the name of R. Harley at the bottom of the letter. In the packet were several letters sealed up.'—This examinant said, 'He procured Jo. Weaver and Wm. Watton, who went twice to Calais for Clark, and carried letters from him, and brought back packets of letters from the commissary of Calais for Clark. He said also, 'That Clark employed one Gosby and one Steed, both of Walmer, to go for him to Calais; but they would not go a second time, because, as they told the said Carter, they were examined very strictly by the commissary of Calais, what ships were in the Downs; and what other news was in England. And the commissary took notes of all they said; and detained them at Calais, whilst they sent to Paris, and had a return. And for these reasons, they were afraid to go any more.'—The examinant Carter further said, 'That, in the next voyage which was made by the two Hattons, in the beginning of Sept. 1706, they brought with them a Frenchman from Calais; who, immediately upon his landing, went with Clark for London. When Clark returned to Deal, he brought with him three Frenchmen, who by some means or other got over to France. The said Carter further said, 'That he often advised Clark to be more private than he had used to be, in managing his correspondence with France; for, if he continued to act in so public a manner, the mob would knock him on the head.' Carter said, He told Clark, 'He wondered how such great persons as Clark said employed him, could be so put upon by him.' Clark replied, 'He knew what he had to do; for, said Clark, it is easier dealing with them than with you,' meaning the said Carter. Clark said, 'He knew his master Harley very well, and almost any thing would serve him.' The said Carter further said, 'That, he and Clark being riding together upon the beach, they saw 18 ships at sea. Thereupon Clark said, 'Here is news for my master Harley: I will send him word, here is seen a squadron of French ships.' Carter said, 'What! before you know whether they are French?' To which Clark replied, 'It is all one for that; it will serve my turn as well.' Clark would often speak contemptuously of the great men above. Carter further says, 'That Clark's manner was, to give orders to the men who went over, 'That, if they were taken by the French, they would shew their letters, and they would help them to get to France; but if they met with Englishmen, they were then ordered to throw their letters overboard.' The said Carter also said, 'That at last he broke off correspondence with Clark. He had known him drunk and sober; and always thought him to be in the French interest. He would several times send over boats without goods. Clark pretended he was a protestant; but Carter said, 'He never believed it.' He would never go to church, and always talked favourably of the papists: He was a lewd, drunken fellow, and talked very extravagantly and foolishly.—This examinant being asked, 'Why he gave Clark warning of the danger he ran, in keeping this correspondence so openly?' He said, 'That the mob had several times come about them, and called them French dogs and rogues; and reproached them, for betraying our ships, and giving intelligence to the enemy.' And he further says, That though Clark railed at Bara, yet he seemed very great with him when they met."

Jordan's Examination.

"Captain John Jordan, a riding officer of her majesty's customs at Folkestone, in Kent, saith, 'That, for some time last past, he hath heard of one Clark on their coast, who held a correspondence with France; but had no personal knowledge of him till the 24th December last was 12 months, at which time he seized his boat, as it came from France, at Dimchurch. On the 30th Dec. following, the said Clark came to him from Hythe, and demanded the reason why he seized the said boat? And

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captain Jordan replied, 'For carrying wool to France.' Then Clark told him, 'He was employed by the government, to learn news from France; and he could not go over unless he carried some wool, and that he had done several times.' Whereupon the said captain Jordan laid his hand on Clark's shoulder, and said, 'I have therefore a great mind to seize you.' Then the said Clark seemed concerned, saying, 'If you do, I shall and will deny all I have said,' (there being nobody but them two in the room.)—Then the said Clark took out of his pocket a paper writing, signed Harley, with a great seal at one side; which the said captain Jordan read; and it was a pass for him and his servant, &c. And the said Jordan having heard that this said Clark had been took up at Dover and Deal for the like practices, and again discharged, he let him go.—And he further told the said Jordan, 'That he should have an order from the Secretary of State to have his boat returned.' Who answered him, 'That, when he saw such an order, he knew how to obey it.' But, no such order being ever produced to him, he condemned his said boat the following term.'—And the said Jordan further saith, 'That Clark soon after procured another boat, which went to and from France as before; which, he saith, landed at Dover about the 23d of July last, and part of the goods seized that she brought from France. August 2d, 1707, Clark's boat came from France, and landed at Shoren Cliff, near Hythe. Aug. 14th, she came from Boulogne, and landed at Dimchurch. August 28th, Clark's boat went off for Boulogne, from Hyth Stade. September 20th, Clark's boat went over again, and returned to Dover on the 5th of October, where it was seized. October 4, the said captain Jordan, by order of Mr. Baker, seized two fine horses at Hythe, belonging to the duke * at Boulogne, under the care of Mr. Clark, and one James Gordain the duke's groom: Which groom then got away; and he has not heard of him since. On the 6th of Oct., the said Clark sent a letter to the said Jordan, telling him, 'He was informed he had took away his horses out of Monger's stable; that the horses were his, and for his own use; and if he pleased to return them to the said stable, it would oblige him; otherwise he must take his measures in London.' Signed John Clark, and ready to produce.—On the 17th Sept., 1707, Clark was sick at the King's Arms, at Folkestone, where the said Jordan sometimes visited him. And the said Clark did then tell the said Jordan, 'That the 1st time he went over to Boulogne, having then but a small parcel of wool with him, the king's commissary Collanson met him at the water side, and asked him, 'What he came there for?' and looked very sour upon him; and then carried him and one Le More (one of the boatmen) up to the governor; who was very rough with them, telling them, 'They came there for something else than to bring such a small parcel of wool, which would not bear their charges, threatening them to tell the truth.' Then Clark desired to speak with the duke privately. Then Clark told the duke, 'He came to learn news;' which expression much surprised him: But Clark told him (as he the said Clark informed the said Jordan), 'That if he could serve his excellency on the other side (meaning England), he would serve him faithfully.'—But the said Le More was threatened with death, as being a Frenchman, and had had formerly a commission in an English privateer against his king; so he fell on his knees, and begged for his life; and Clark told Jordan, 'That, upon his interest and pleading for him, he was pardoned.'—And Le More himself has told the said Jordan, 'That the duke at Boulogne asked them, 'Whether the English were not under some apprehension of fear, when their gallies appeared off the Kentish coast?' Clark replied, 'He believed they were.' The duke answered, 'They need not; for that coast is under my protection.' Clark asked his excellency, 'Whether or not he might have the liberty to mention it when he came home?' He answered him, 'That he might.' Then Clark asked the duke, 'When he came over to Boulogne again, what if his excellency should be at Paris?' He replied, 'That he would give directions that he should be well used.' And that the said Le More was not permitted to come over in Clark's boat; but was put on board one of their shallops, and so set on shore by them in England.' And Le More further told the said Jordan, 'That he verily believed, that the said Clark shewed the Secretary of State's pass to the duke at Boulogne."

Whitehall's Examination.

"Lancelot Whitehall, collector of the customs at Deal, being examined, said, That about Christmas 1705, he had notice of some persons lurking to carry on the French trade. In order to discover them, he thought at last of one Carter, who had been an offender; who, in hopes of pardon, might be willing to help to discover them. John Carter said, 'If he might have time, he would undertake to do it.' About March, Carter discovered Clark; but, he being out of his district, he gave notice to the officers of Sandwich, who took him: And afterwards he was sent for by messengers, to London; and in a little time was discharged, as Mr. Whitehall has been informed. Some time after, Carter informed him of one Bara, who was lying concealed, in order to go over to France; and he had liked to have surprised him; but a French sloop came in the mean while and carried him off, about a quarter of an hour before the persons employed by him came. Mr. Whitehall said, That in April Carter informed him, 'That Bara was returned;' and he seized him at Dover, and had him examined before the mayor of Dover, who took

* It appears frequently, in the course of these Examinations, that the duke D'Aumont was at Boulogne at the time.

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affidavits of the matter. Mr. Whitehall sent an account of this to the commissioners of the customs (with copies of the said affidavits, now in the hands of Mr. Baker), by his letter dated the 29th of April, 1706, now produced, and to which Mr. Whitehall refers. This gave occasion to Mr. Secretary Harley to send a letter to Mr. Whitehall, dated the 29th May, 1706. The original letter being produced by Mr. Whitehall, he refers to it. To this letter he wrote an answer, of the 31st May, 1706; he produced a copy of that letter, which he transcribed from a foul draught, and therefore could not be positive as to every word in the same; but he is sure it was to the effect and sense of the letter. After he had sent that letter away, the same day, Bara applied to Mr. Whitehall, to help him to a boat, to go to France. Mr. Whitehall said, 'He would not do it, without an order from the Secretary.' And thereupon he sent away another letter to Mr. Secretary Harley the same day: to the copy of which he likewise refers. Mr. Secretary Harley returned an answer to this last letter, by a letter dated the 1st of June, 1706, to which he refers: But Mr. Whitehall did nothing upon the letter: not thinking this letter to contain orders which were full and clear enough. Some time after, Carter brought to Mr. Whitehall three letters, which he had received from Clark, with directions to put them into the hands of the men who were going for France. One of the letters was directed to Camue (or such like name), a merchant at Calais; the second to the commissary at Calais; and the third to the governor or commissary of Boulogne; he is not certain to which of them. Upon which, he wrote to Mr. Secretary Harley, to give him an account of these three letters; and told him, 'That, the wind being now out of the way, he had now an opportunity, if he pleased, of seeing them, and judging if Clark dealt honestly or not.' To this letter he never received any answer. Mr. Whitehall had no copy of this letter with him; his clerk who kept his books, being here in town when Mr. Whitehall came to the Lords Committees upon the summons. Mr. Whitehall being asked 'Why he did not open those letters or stop them?' He said, 'He would not do it, having been reprimanded for what he had done before.' Clark and Bara were generally known on the coast by the distinction of Mr. Harley's spies, especially Clark, who bragged of his being employed on all occasions, and in all companies; but Bara was more cautious, and seldom appeared by day. Mr. Whitehall said, 'That it was his opinion, and the general opinion of people upon the coast, that they carried more intelligence to France than they brought from thence.' He said, 'The trade of France was much suppressed till this encouragement was given by employing so great a number of men. Clark did not confine himself to particular people; but employed any body he could get, by which practice the whole coast is corrupted; so that now a much greater number of officers will be wanting, to prevent the pernicious intercourse with France, than have ever yet been employed."

Bowles's Reasons for examining Verge and Morillion, &c.

"Reasons for apprehending Jos. Verge and Daniel Morillion, and examining Valiere, alias Clark, together with some Remarks, and my Opinion thereon, and my Letters.

"The cause of my writing to sir Charles Hedges, 22nd August, 1706, was grounded, 1. Upon Clark's corrupting so many seamen on our coast, in going for France, as appears by first paragraph of said letter. 2. Clark's voluntary boasting of his power, and shewing his licence to Ste. Colledge and Ball, and frequently to many others. 3. His presumption in expressing himself at Walmer Castle to Jos. Wildbore, and others then in company, saying, 'He would protect any one's going to France for 5s.'—About a day after, I saying in a coffee-house, 'How pernicious it might prove for a boat's crew going to Calais, at a time the Dutch transports was at sail:' Clark answers, in the mayor's and my presence, 'That that was not treason: That treason was only to those that carried warlike stores and implements, and such as held traitorous correspondence, and not such men as went over to trade on their own accounts.' Considering said expressions, and finding by Morillion's affidavit, &c. 'That said Clark had the first voyage, in July 1706, sent him with Bayly and Verge, with a letter to the commissary of Calais, who asked him, 'Concerning the Dutch transports in the Downs; the number of men of war, rates; what merchant ships? when they were to sail?' Likewise, what frigates cruizing off Beachy, Dungeness, North Foreland and Margate, &c.?' And then brought Clark an answer of same letter at return: Said reasons did cause me to examine Clark, who shewed me two licences for his being on our coast of Deal and Dover unmolested, under the hand of Mr. Secretary Harley, the one dated in May, the other in June, 1706, for fourteen days; and I observing at the time of his sending over the first boat, the last licence was expired some weeks. What gave me the further jealousy was, in observing that Clark lodged and frequented little houses of ill fame, and kept scandalous and frippery company, and frequently was disguised with strong drink; at which times he was full of talk and of his power, whereby he was known by the name of Clark the spy, by men, women and children, from Margate all along the sea-coast to Rumney Marsh. And as it was generally said, he was a person poor and needy, and but a journeyman wig-maker; and withal he seeming, to my opinion, an open, leeky fellow, and of a shallow capacity; it was not consistent with my reason to believe, that such a person should come at the secrets or knowledge of the councils of France, so as to gather from thence any point of importance by corresponding with

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the governor or commissary of Calais; but I concluded the contrary, and I believed him a spy upon us: And it is my opinion, through his means, the seamen of our coast for two years last past has been so corrupted, that France has had intelligence to their advantage thereby. As also it appears to me to believe, through Clark's sending over so many sets of boats and men to France, the same gangs has, on their own accounts, and will, gone afterwards so oft as they please; by which means it is my thoughts, France has had often intelligence from said persons, all they knew or was capable of telling, and very possible, through said means, may have been the cause of not only the taking the sundry frigates as was cruizing off Dungeness, &c. about them times as they was cruizing off their stations; but I fear also might since be the occasion of the loss of the Grafton and Hampton Court, with 20 sail of merchant ships in May last."

Rasbury's Examination.

"James Rasbury, waterman, being examined, says, 'That, about June last was twelve months, a man, whose name he knew afterwards to be Bara, came to him at Whitehall stairs, and asked for a large boat, pretending he was to go to look after a ship that was fallen down the river. The examinant made some difficulty at first, not knowing whither he was to go; but afterwards he was prevailed upon, and did provide a boat, and carried him as far as Margate; into which place he was in a manner forced by the weather; but positively refused to go any further with him.'"

Howard's Examination.

"Isaac Howard, then servant to the said Rasbury, being examined, saith, 'That he went over to Calais with the said Bara, in the boat provided by James Rasbury, from Margate: That, when they landed at Calais, a file of musqueteers took them into custody; and as they were going along, a man speaking something to Bara, Bara struck him a blow in the face with his hand: That they were carried before the commissary of Calais, where he was kindly entertained, and stayed with him about two hours; and, after that, Bara was at liberty all the while he stayed there; and, after two days, the examinant brought Bara back to the Downs.' The examinant further says, 'That, about a month or six weeks after, Bara asked the examinant to go over with him again to France; but he refused.'"

William Mason's Examination.

"William Mason, waterman, being examined, says, 'That, at the same time when Isaac Howard refused to go with Bara, the examinant agreed with him, and carried him to Dunkirk. As soon as they landed, Bara went directly to the governor's house; and the examinant stayed below, till Bara came down to him. He found Bara to be well known, and well received there. He stayed there two days; and then the examinant took him into his boat, and set him down near Sanddown castle. This was in the latter end of July or beginning of August last was 12 months.' The examinant farther saith, 'That Bara was very fearful of being seen any where upon the coast, because he was known every where.'"

The Information of John Carter.

"This informant saith, 'That, upon Thursday the 26th of this instant February, about six in the evening, being passing into the Park, a gentleman, that he had often seen at Mr. Baker's office, who, he has been since told, is called Mr. Hind, came to him and invited him to drink; which he refused. Then Hind asked him, 'if he would take a walk in the Park;' and he agreed to it: And then Hind asked him, 'What the Lords did with Bara and Clark?' he replied, 'he did not know what.' Then Hind said, 'he heard Bara had squeaked;' and he answered, 'he believed he had.' Then he asked, 'What captain Whitehall, Mr. Bowles, and Jordain, could say in the matter?' he replied, 'he could not tell; but believed they knew a great deal relating to that affair.' Then said Hind, 'I suppose they have got Mr. Harley's letters to shew.' And further enquired, 'If any letters were or could be produced, relating to the ships that were taken: and bid him learn that, if possible:' Carter replied, 'he knew not.' Then the said Hind told him, 'That, if he would discover what he knew, and pick out and learn what others had said, relating to these matters now depending before the Lords Committees (with words to that effect), and go with him to Mr. Harley to inform him the same, he said he should have 100 guineas.' Then further said, 'He should have 200 guineas; out of which he would give said Hind a good pair of gloves: And, for the the said Carter's further encouragement, the said Mr. Harley would give him a good ship: and then bid the said Carter spend what money he pleased, and that freely, where he could get intelligence; and particularly amongst those people now under examination before the Lords.'—And Hind further said, 'That captain Baker was the chief promoter of those matters; and that he should be turned out of his business, when Mr. Harley's trouble was over.' And further said, 'That captain Whitehall was a great rogue;' and was very inquisitive who Mr. Bowles was: Carter replied, 'A gentleman of a good estate, and a great merchant in their country.' After this discourse, they parted, with a promise to meet again in the morning, which they did in Whitehall; and then the said Hind and he went aside; and Hind then told him, 'he had been with Mr. Harley; and that he directed him not to bring the said Carter to him yet; for the matter was to go before the queen as this day; and would see him again to-morrow; and he should go before Mr. Harley.' And then told him also, 'That Mr. Harley enquired if he was an honest man, and thought he might confide in him; for

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otherwise, said he, it might do me a mischief.' To which Hind replied to the secretary Harley (as he told Carter) 'He verily believed he might.' And afterwards spoke some reflecting and unbecoming words of the lord Sunderland, and others."

Mr. Bowles' Account of Bland.

"About October last, Bland, a waterman of London, had been hovering about the Downs, to and fro, for near three weeks, in a large wherry, with the addition of a streak higher built, to make her the more bold in the sea. And, after he had been about said time on our coast, in the night, at high water, he, with his two other crew, put his wherry to the shore, and took in the same five bags wool. At which time came to the boat four persons, that got hold of the land-rope, and hauled her in; on which, Bland comes forward with a knife in his hand, in order to cut the rope. But one of the four persons up with a club, and said, 'If he offered to cut the rope, he would knock him down;' Whereupon Bland stept aft; then hope heave out the five bags wool in the sea. Soon after, the boat fell along the shore; out jumps Bland, and runs away: soon he and his two fellows were seized by the constables. Next morning I had both parties before me.—On examination, the four persons, Bland and his two watermen, all proved Bland in the boat. At same time that he went forward with a knife to cut the land-rope, he hove the wool out the boat; then jumpt out of her, and run away. He denied the whole, and all; and said, 'he was at another place.'—It appearing plain he was in the boat also by other evidence, I set him by, and examined again his two watermen: the oldest of which said, 'They designed to cross the water, which he reckoned Ostend:' The other said, 'They were bound to the other side, with the wool; and that Bland said, he would make of it as short a trip of it as he could.'—Then I asked Bland his business on board the merchant ships in the Downs the two days past, and particularly on board of five ships last afternoon: he owned that part; and said, 'It was to ask if they would buy of him some brandy, if he should bring them some on board.'—Bland denied ever being at Calais; saying, 'was never there in his life.'—I orders him to prison, where he remained about nine days. Then he was sent to Dover prison: soon after, I heard he was bailed thence. My opinion, on the foregoing reasons, is, That Bland designed for Calais; that his going on board the several merchant ships in the Downs, I believe, was in order to take notice, and give account thereof, and their value: as also, whatsoever intelligence he knew, or was sensible of giving, to our enemies at Calais, &c."

Barker's Representation, concerning Bland's Correspondence with France, sent from the Admiralty.

Admiralty-office, 2d Jan. 1707-8.

"Gentlemen; By command of the Prince, I send you the enclosed copy of a Petition of John Barker, giving an account of one Bland's corresponding with France, to be laid before the right honourable the earl of Sunderland, her majesty's principal secretary of state. I am, &c. J. BURCHET."

"Secretary to the Earl of Sunderland."

"To his Royal Highness Prince George of Denmark, Lord High Admiral of Great Britain, &c. The humble Representation of John Barker, of Kingston upon Hull, late Master of the Ship Isabella:

"Sheweth; That, on or about the month of August 1705, your petitioner was taken prisoner into France, in the said ship, and confined in Calais prison till the month of August 1706; in the course of which time, one James Fauset, servant to Mr. Bland, a waterman at Billingsgate, came often to see your petitioner; and (amongst other discourse) told your petitioner, 'That his said master Bland had brought him thither, and caused him to be confined in that town, for fear he should lay open to the ministry of this government his illegal practices, of carrying and conveying the news, and other secret affairs and transactions of his own nation, to the French court.' And the said James Fauset did then also declare to your petitioner, 'That to his certain knowledge, his said master held a constant correspondence with several merchants in Calais, and from time to time brought them the newspapers, and other private intelligence, to the detriment of this nation.' And the said Fauset, as his mother (who lives in Weaver Lane, in Southwark) alledges, made his escape from Calais by swimming to the packet-boat, who is since gone a voyage to the West Indies, for fear of harm from his said master. Your petitioner therefore thought it is his duty, humbly to acquaint your Highness of this matter, for the service of the nation, and the better to prevent further disappointments; which will unavoidably happen, whilst such persons remain undetected.

"JOHN BARKER."

The Queen's Answer to the Address.] To the above Address* the queen gave this Answer:

* "After the presenting of this Address, Gregg was respited about a month longer, but, still refusing to make any farther discoveries, he was executed at Tyburn on the 28th of April, 1708. He left a Paper with the sheriff wherein he entirely cleared Mr. Harley; though some suspected that gentleman to be the contriver of that Paper, and ascribed the composedness, which appeared in Gregg's countenance, till he came to the place of execution, to a firm expectation, which he was made to entertain, of a reprieve; and others gave out, that he complained, That there was no trust in man; while, on the other hand, the seven Lords of the Committee, appointed to examine

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"My Lords; I am sorry that any who have been employed by those in my service should have proved false to their trust, and injurious to the public.—The examples you lay before me will, I do not doubt, be a sufficient warning to keep all matters of importance as secret as may be; and to employ such only, as there shall be good grounds to believe will be faithful."

Address of both Houses on the Invasion intended by the Pretender.] March 4. Mr. Secretary Boyle acquainted the Commons, "That her majesty had commanded him to lay before the House, several Advices received the night before, and that morning, of great preparations at Dunkirk for an immediate Invasion upon England by the French,* and of the pretended prince of Wales being come to Dunkirk for that purpose." The Letters and Extracts relating thereunto, being read, it was unanimously resolved to present an Address to her majesty, to which they desired the House of Lords to give their concurrence, and both Houses waited the next day on the queen with it, as follows:

"We your majesty's most faithful and obedient subjects, the Lords Spiritual and Temporal, and Commons of Great Britain in parliament assembled, do beg leave to return our most hearty thanks to your majesty, for being

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him, were afterwards reproached with having endeavoured to suborn Gregg, and engage him, by a promise of pardon, to accuse Mr. Harley.

"Swift, in his Examiners, has several passages to this purpose. In No. 32, for March 15, 1710-11, he writes thus: "And here it may be worth observing, how unanimous a concurrence there is between some persons, once great in power, and a French papist [Guiscard] both agreeing in the great end of taking away Mr. Harley's life, though differing in their methods; the first proceeding by subornation, the other by violence; wherein Guiscard seems to have the advantage, as aiming no further than his life, while the other designed to destroy, at once, both that and his reputation. The malice of both against this gentleman seems to have risen from the same cause, his discovering designs against the government. It was Mr. Harley, who detected the treasonable correspondence of Gregg, and secured him betimes, when a certain great man, who shall be nameless, had, out of the depth of his politics, sent him a caution to make his escape, which would certainly have fixed the appearance of guilt upon Mr. Harley; but, when that was prevented, they would have enticed the condemned criminal with the promise of a pardon, to write and sign an accusation against the secretary. But, to use Gregg's own expression, his death was nothing near so ignominious, as would have been such a life, that must have been saved by prostituting his conscience." Dr. Swift repeats the same charge in the Examiner, No. 33, and was answered in the Medley, No. 26, and in a pamphlet printed in 1711 in 8vo, intitled, A Letter to the Seven Lords of the Committee appointed to examine Gregg." Tindal.

* "A few days after this breach at court," [See the note at p. 662,] "the nation was suddenly alarmed with the news of an Invasion. The French king, to retaliate the late attempt upon Toulon, resolved to carry the war into Great Britain, by sending the pretended prince of Wales to Scotland with a fleet and army, to possess himself of that kingdom, being induced thereto by the hope given him, that the Scots were so highly discontented on account of the Union, as to be ripe for a revolt, and ready to join him on his arrival amongst them. The necessary preparations for the expedition were carried on at Dunkirk with all imaginable diligence, and with such secresy, that the design was rather guessed at than known, till the Pretender himself set out from St. Germains, when it was no longer a mystery, that he intended to make a descent upon Scotland. The day before his departure, the French king went to St. Germains to take his leave of him, and wish him success; presented him with a sword enriched with diamonds of a considerable value, and desired him always to remember that it was a French sword. The chevalier de St. George (for this was the name the Pretender assumed in this adventure) answered the compliment with assuring him, That, if it was his good fortune to get possession of the throne of his ancestors, he would not content himself with returning him thanks by letters and embassadors, but would shew his gratitude by deeds: Nay, he would come in person to acknowledge his majesty's protection and assistance. To which the French king replied, He hoped never to see him again. Upon his arrival at Dunkirk, the Pretender was furnished with very fine tents, a large set of gold and silver plate of curious workmanship, cloaths for his future life-guards, liveries for his household, and other necessaries; towards the charge of which, and of this armament, the pope was said to have contributed a considerable sum of money. The Pretender's motto upon the colours and standards were, 'Dieu 'et mon droit,' 'God and my right:' 'Nil 'desperandum Christo, duce et auspice Chris-'to,' 'I ought not to despair, since Christ is 'my guide and helper:' And 'Cui venti et 'mare obediunt, impera, Domine, et fac tran-'quillitatem;' 'Thou, Lord, whom the winds 'and sea obey, command, that it be calm.' The preparations of the French at Dunkirk gave great uneasiness to the States General, who concerted with the British ministers the necessary measures for dispelling the storm, which seemed to threaten her Britannic majesty's dominions, of which they gave timely information to the queen; as did likewise her envoy, major-general Cadogan, who had early intelligence of the design from a Jew residing at Dunkirk." Tindal.

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graciously pleased to communicate to your parliament, the intelligence you have received of an intended Invasion of this kingdom, by the pretended prince of Wales, supported by a French power.—We are so sensible of the happiness we enjoy under your majesty, and are so affected with the dangerous consequences of such an attempt, both to your person and government, that with hearts full of concern for your majesty's safety, we beseech your majesty, that you will be pleased to take particular care of your royal person; and we, on our parts, are fully and unanimously resolved, to stand by, and assist your majesty with our lives and fortunes, in maintenance of your undoubted right and title to the crown of these realms, against the pretended prince of Wales, and all other your enemies both at home and abroad.—The care your majesty has taken for the defence of your dominions, and particularly in fitting out so great a fleet in so short a time, gives satisfaction and encouragement to all your good subjects, who are likewise very sensible of the zeal the States-general have shewn upon this occasion.—As a farther instance of our duty, we humbly desire, That you will be pleased to order that the laws against papists and nonjurors be put in execution; and, that directions be given to seize and secure such persons, with their horses and arms, as your majesty shall have cause to suspect are disaffected to your person and government.—And as we doubt not but, by the blessing of God upon the continuance of your majesty's care, your enemies will be put to confusion, so we readily embrace this opportunity, to shew your majesty and the whole world, that no attempts of this kind shall deter us from supporting your majesty in a vigorous prosecution of the present war against France, till the monarchy of Spain be restored to the house of Austria, and your majesty have the glory to compleat the recovery of the liberties of Europe."

The Queen's Answer.] To this Address her majesty was pleased to give this Answer:

"My Lords and Gentlemen: I have such entire dependence on the providence of God, and so much trust in the faithful services of my good subjects, that I hope this attempt will prove dangerous only to those who undertake it.—I am extremely sensible of your concern and affection for me and my government, and shall have a very particular regard to the advice you give me upon this occasion.—I am also very well pleased with the justice which you have done the States-general, in taking notice of their timely care for our safety, and their readiness to give us all possible assistance.—The firm resolution which you express upon all occasions of supporting me in bringing this war to a safe and happy conclusion: as it is most essentially obliging to me, so I assure myself, it will mightily dishearten our common enemies, and give the greatest advantage to all our allies."

The Queen's Speech on the Miscarriage of the intended Invasion.] March 11. Her majesty came to the House of Peers and made this Speech to both Houses:

"My Lords, and Gentlemen; I think it necessary to acquaint you, That I have received advices this morning from Ostend, that the French fleet sailed from Dunkirk, Tuesday at three in the morning, northward, with the Pretender on board; as also that sir George Byng had notice of it the same day at ten: and he being very much superior to the enemy both in number and strength, I make no question but, by God's blessing, he will soon be able to give a good account of them. I have also advice, that ten battalions of my troops were embarked at Ostend, ready to sail with their convoy as there shall be occasion: And I shall continue to take all proper measures for disappointing the enemy's designs."

The Lords' Address of Congratulation thereon.] March 12. The Lords agreed upon the following Address:

"We, your majesty's most dutiful and obedient subjects the Lords spiritual and temporal in parliament assembled, return our most humble thanks to your majesty, for communicating to your parliament the intelligence received of the designs of the Pretender to your crown, assisted by the French king, and for what you have already done towards frustrating this attempt.—We humbly beg your majesty to pursue the most vigorous methods for the total disappointment of this design; in which we firmly assure your majesty of our most hearty and unanimous concurrence. We doubt not but your majesty will soon see such a spirit, and so dutiful a zeal, amongst your subjects, as will entirely dash the hopes of the Pretender, without diminishing the generous assistance you have so long given to your allies for support of the common liberty of Europe. It is with concern, and with just indignation, we hear of a purpose to invade your dominions with so inconsiderable a force. This, as it must depend upon some invitation and encouragement from hence; so it is an undeniable proof, that neither your majesty's piety, nor the mildness of your government, nor the successes of your reign, can reconcile some men to the present establishment, the only sure foundation of our liberties, and the protestant religion: We hope your majesty will always have a just detestation of those persons, who, at a time when this hellish attempt was a-foot, and so near breaking out, were using their endeavours to misrepresent the actions of your best subjects, and create jealousies in your majesty of those who had always served you most eminently and faithfully. And we beseech your majesty not to give so just a cause of uneasiness to your people, as to suffer any such hereafter to have access to your royal person.—We hope for this good effect from so unhappy an occasion, that the universal zeal, which will appear, for the preservation of your majesty's government and the Protestant Succession, will unite us to one another, and cure our mistakes and misappre-

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hensions, which have been so industriously and maliciously improved: But, nevertheless, we most humbly offer it to your majesty, as our opinion, that your majesty should principally depend upon and encourage those who have been ever since the Revolution most steady and firm to the interest of the late king, and of your majesty during your happy reign."

The Queen's Answer.] The queen gave this Answer:

"My Lords; I am extremely sensible of your zeal and concern for the safety of my person and government; and very well pleased, to find your thoughts agree so exactly with mine, that no attempt of our enemies against us at home should divert us from prosecuting the war abroad with the greatest vigour; the hopes of which has probably been one of their principal motives to so presumptuous an undertaking.—As I cannot but wish there were not the least occasion of distinction among my subjects; so I must always place my chief dependance upon those who have given such repeated proofs of the greatest warmth and concern for the support of the Revolution *, security of my person, and of the Protestant Succession."

The Commons' Address.] The Address of the Commons was as follows:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, humbly wait on your majesty, to express the great sense we have of your grace and favour, in communicating to us from the throne, the account of the French king's persisting to invade your dominions, and to impose a Pretender upon these realms, over which your majesty is rightful and lawful sovereign.—The small number of ships and troops with which this project is prosecuted, notwithstanding the great naval force your majesty has fitted out with so much expedition, as it ought to be regarded with contempt on the one side, so on the other it gives us just cause to believe, that their chief dependence is upon some of your subjects, whose restless passions and arbitrary principles have, for some years, engaged them in forming designs to undermine and destroy the most happy establishment that the government of this Island was ever founded upon.—The defence of your majesty's person and government, and the support of the Protestant Succession, are things so sacred to us and your people, that as a demonstration of our unfeigned zeal to assist and support your majesty to the utmost of our power, we do, in the name of the Commons of Great Britain, give this assurance, that whatsoever charge you shall be at by augmenting your troops at home, and replacing those you have recalled from abroad, or for such other services as your majesty shall judge necessary upon this extraordinary occasion, shall be effectually made good. And we humbly recommend it to your majesty, that the severest punishments may be inflicted upon such as shall assist in so unnatural a design, as that of betraying your majesty and their country, so we do not doubt but you will give suitable encouragement to all those who shall shew their fidelity by opposing the invader and his accomplices in Scotland, or wherever the descent shall be.—Your majesty wants no incitement to a steady prosecution of the war in which you are engaged for the common cause; yet permit us to take this opportunity to entreat your majesty, that this enterprize may no ways divert your constant vigour, that all the world may see that both your majesty and your people are determined to support your allies in all parts, whatever attempts are made at home.

"May it please your majesty. There can be nothing so dangerous or fatal to the safety of your royal person, and the security of the present happy establishment, as those persons who endeavour to create divisions and animosities among your faithful subjects, or by any artful methods lessen the just esteem your majesty has for those who have so eminently and in so distinguishing a manner commanded your armies and managed your treasure, to the honour and glory of your majesty abroad, and the entire satisfaction of your people at home: We therefore humbly beg leave to beseech your majesty to discountenance all such persons and designs, in the most remarkable manner."

The Queen's Answer.] The queen's Answer was:

"Gentlemen; I give you my hearty thanks for this repeated assurance and certain proof of your zeal for me, and for the Protestant Succession. I am glad your thoughts of the war abroad, so perfectly agree with my firm resolution upon that subject. You may depend that no apprehensions (farther than are reasonable) shall have any influence on my measures while the cause of religion and liberty, with the good affections of my people, are on my side.—I think all who endeavour to make divisions among my faithful subjects, must be mine and the kingdom's enemies; and I shall never coun-

* "The queen being much alarmed with the danger of this invasion, saw with what falshoods she had been abused by those who pretended to assure her there was not now a Jacobite in the nation. For this reason she was observed to make a remarkable variation in her stile. She had never in any speech mentioned the Revolution, or those who had been concerned in it. And many of those, who made a considerable figure about her, studied, though against all sense and reason, to distinguish her title from the Revolution, on which it was plainly founded, and on nothing else. But in this answer and another speech she named the Revolution twice, and said, she would look on those concerned in it as the surest to her interests. She also fixed a new designation on the pretended prince of Wales, and called him the Pretender (particularly in her speech at the close of this session) and he was so called in a new set of Addresses, which, upon this occasion, were made to the queen." Tindal.

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tenance any persons who would go about to lessen the just esteem which I have for those who have done, and continue to do me the most eminent services."

March 19. The Commons having addressed the Queen for the payment of the Arrears due to the French regiments that served in the late war, next day unanimously resolved, "That whoever designedly endeavoured to destroy or lessen the public Credit, especially at a time when the kingdom was threatened with an invasion, was guilty of a high crime and misdemeanour, and an enemy to her majesty and her kingdom."

The Queen's Speech at the Close of the Session.] April 1. The queen came to the House of Peers, and after giving the royal assent to 16 public and 17 private Acts, made the following Speech to both Houses:

"My Lords and Gentlemen; I cannot conclude this Session, without acknowledging the wise and speedy provisions which you have made for the public security.

"Gentlemen of the House of Commons; I am also to thank you in particular, for the large and timely supplies which you have provided for the effectual prosecution of the war. I assure you, they shall be carefully and punctually applied for the uses for which they are appointed.

"My Lords, and Gentlemen; I take these (especially at this juncture) to be such undeniable proofs of your zeal and affection to my service, as must fully convince every body of your doing me the justice to believe, that all which is dear to you is perfectly safe under my government, and must be irrecoverably lost, if ever the designs of a Popish Pretender, bred up in the principles of the most arbitrary government, should take place.—I am satisfied, that very false representations of the true inclinations and interests of my people, must have been made by some of my subjects, who have given encouragement to this desperate attempt; since, without something of that nature, it seems very little consisting with the usual precautions of our enemies, to hazard the expence and disappointment of so vain and ill-grounded an undertaking.—However, it is certain, we must be all inexcusable, if we do not take warning from this attempt, to complete what may be necessary for our security at home, and the discouraging the like for the future; to which, by God's blessing, nothing shall be wanting on my part.—And, to the same end, I must recommend to you, at your return into your several counties, to use your utmost care and diligence in putting the laws in execution against papists, and all others disaffected to my government, and in making them pay towards the public taxes to the full of what the law requires from them: Nothing being more reasonable, than that they, who by their principles and practices encourage, if not actually foment, such disturbances, should doubly contribute to the charge of quieting them, and securing the kingdom's peace, and should know themselves on all such occasions to be responsible for the many inconveniencies that may ensue."

Then the Lord Chancellor, by her majesty's command, said, "My Lords and Gentlemen, Her majesty's royal will and pleasure is, That this parliament shall be prorogued to Tuesday the 13th day of this instant April; and this parliament is prorogued accordingly."

PRINCIPAL OCCURRENCES DURING THE RECESS—*The Parliament dissolved—Lord Griffin and others committed to the Tower—Promotions—The first Privy Council of Great Britain—The Morocco Ambassador confined—Death and Character of Prince George of Denmark—Promotions—Duke of Marlborough's interest with the Queen declines—Summer Campaign.*

"Then the parliament was prorogued to the 13th of April; and, two days after, was dissolved by proclamation, and writs were issued out for the elections of a new parliament. On the 26th of April, a proclamation was published, commanding all the peers of North-Britain to assemble at Holyrood house in Edinburgh, the 17th of June, to nominate and chuse, by open election, the sixteen peers, who were to sit and vote in the House of Peers, in the ensuing parliament of Great-Britain, pursuant to the twenty-second Article of the Treaty of Union; and accordingly the dukes of Hamilton, Montross, and Roxburgh; the marquis of Lothian; and the earls of Orkney, Crawford, Rothes, Leven, Mar, Loudoun, Wemys, Roseberry, Glasgow, Northesk, Seafield, and Ilay; some of whom were justly suspected of disaffection to the present settlement. But in England, the just fears and visible dangers, to which the attempt of the invasion had exposed the nation, had so good an effect, that the elections, for the most part, fell on men well-affected to the government, and zealously set against the Pretender.

"Four days after the dissolution of the parliament, Edward Griffin, late lord Griffin, John lord Clermount, and Charles Middleton, two sons of the earl of Middleton, and colonel Francis Wauchope, who had been taken on board the Salisbury, were brought up to London; and, having been examined by a committee of the privy-council, were committed prisoners to the Tower for high-treason, by warrant of the earl of Sunderland, secretary of state; and, two days after, the Irish officers, taken also on board the same ship, were, for the same crime, committed to Newgate. Several persons were likewise seized in Scotland, and sent up to London.

"The removal of Mr. Secretary Harley having occasioned some other vacancies, Robert Walpole,* a gentleman of quick parts and

* "After some unavailing struggles, Harley was dismissed from the office of Secretary of State, and succeeded by Henry Boyle, afterwards lord Carleton, who proved his friendship for Walpole, by appointing his brother, Horace,

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masterly eloquence, was, in Mr. St. John's room, made secretary at war: and the place of secretary to the marines, which had been likewise held by Mr. St. John, was given to Mr. Josiah Burchet. Some time after, the queen delivered to the earl of Cholmondley the staff of comptroller of her houshold; and, about the middle of April, her majesty made a promotion of general officers, by which the earl of Rivers was advanced to the post of general of the horse.—Some time before, orders and commissions were delivered for new-raising the regiments of Montjoy, Gorges, Alnut, Mordaunt, Wade, Maccartney, and lord Mark Kerr, which suffered most at the battle of Almanza; and their officers, who were prisoners in France, were supplied by others. About the same time, the earl of Wemys and sir John Leake were added to the lord high-admiral's council. On the 22d of April, her majesty nominated Dr. William Fleetwood to the bishopric of St. Asaph, vacant by the death of Dr. Beveridge, and sir William Giffard was appointed governor of Greenwich hospital; and Hugh Boscawen warden of the stannaries.

"The Scotch privy-council being dissolved by virtue of the late act, entitled, 'An Act for 'rendering the Union of the two kingdoms 'more intire and complete,' the queen, on the 10th of May, appointed the first Privy-Council of Great-Britain; consisting of, The archbishop of Canterbury; William, lord Cowper, lord-chancellor of Great-Britain; Sidney, earl of Godolphin, lord-high-treasurer; Thomas, earl of Pembroke, lord-president; John, duke of Newcastle, lord-privy-seal; William, duke of Devonshire, lord-steward; James, duke of Ormond, Henry, marquis of Kent, lord-chamberlain; James, earl of Derby, Thomas, earl of Stamford, Charles, earl of Sunderland, principal secretary of state; Charles Bodvile, earl of Radnor, Charles, earl of Berkeley, Francis, earl of Bradford, Hugh, earl of Cholmondley, Henry, lord bishop of London, William, lord Dartmouth, Henry Boyle, principal secretary of state; Thomas Coke, vice-chamberlain; sir John Trevor, master of the rolls; sir Thomas Trevor, lord-chief-justice; sir Charles Hedges, James Vernon, John Howe, Thomas Erle. At the same time John Povey, Edward Southwell, and Christopher Musgrave were sworn clerks of the council.

"On the 15th of May, the lord Griffin, one of the prisoners taken on board the Salisbury, being attainted, by outlawry for high-treason, committed in the reign of king William, was brought to the bar of the Queen's bench, and, after reading of the outlawry, being asked, What he had to say, why execution should not be awarded against him? He said, in his defence, 'That he was neither in arms, nor in council with the enemy; but was forced by the French court upon the expedition, intirely against his judgment and inclination, notwithstanding he had expressed his dislike of it, as a rash and foolish attempt;' adding, 'That he threw himself at the queen's feet for mercy, and hoped the favour of the court.' His defence being judged intirely foreign to the outlawry upon which he was brought to the bar, the court made a rule for his execution, as is usual in such cases: But though the queen was prevailed with to sign the warrant for sentence to pass upon him, a reprieve, however, for a fortnight, was sent the night before to the Tower; and that, expiring the last day of June, was then renewed, and afterwards continued from month to month, till he died a natural death in the Tower, about two years after.

"On the 20th of May, Meinhard, duke of Schomberg, and John Smith, late Speaker of the House of Commons, who, about this time, was constituted Under-Treasurer and Chancellor of the Exchequer, in the room of Mr. Secretary Boyle, were sworn of the privy-council, as was the duke of Somerset a week after; and, towards the latter end of the same month, the duke of Queensberry was made a peer of

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his private secretary; and the subsequent nomination of lord Somers to the presidentship of the council, completed the triumph of the party. Walpole himself was not overlooked in the change. He was selected by Marlborough as the most proper person to succeed his favourite, St. John, in the delicate office of Secretary at War; an office which required a person of no less prudence than ability. During the absence of Marlborough, the Secretary at War transacted the business of the department personally with the queen; he was to correspond officially and confidentially with the commander in chief; and had the difficult task to conciliate the capricious temper of the duchess of Marlborough, who interfered in all business, governed her husband with the most absolute sway, and who now treated the queen with those marks of disrespect, which finally occasioned her own disgrace, and the fall of the Whig administration.—On the decease of sir Thomas Littleton, Walpole was appointed Treasurer of the Navy, which office he held for a short time, with that of Secretary at War. In addition to his parliamentary abilities, Walpole endeared himself to Godolphin by activity and punctuality in business, order and precision in accounts, great knowledge of finance, and the most engaging manners. The treasurer admitted him into his most secret councils, entrusted him with the delicate office of composing the speeches from the throne, and from the time of Harley's resignation, committed to him the management of the House of Commons. Nothing will place the prudent and conciliating character of the young senator in a stronger light, than that Godolphin and Marlborough, who never cordially coalesced with the Whigs, should take into their confidence, one who had proved himself, and still continued to prove himself, so ardently attached to that party; at the same time he was so far from forfeiting the favour of the Whigs, that he was equally beloved and trusted by their leaders." Coxe's Walpole.

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Great-Britain by the title of baron of Rippon, and marquis of Beverly in the county of York, and duke of Dover in the county of Kent.

"In the month of July, an ambassador from the emperor of Fez and Morocco arrived in Great-Britain with a present of six lions for the queen; but upon his coming to Hammersmith near London, he was put under an easy confinement by way of reprizal for the restraint put upon captain Delaval, the queen's envoy in that country, before he reached that court; which happened upon a false report, that some ill usage had been offered to Hamet Ben Hamet Cardenas, the late Morocco ambassador here. But, upon better information, the captain was released, as was also the Morocco ambassador. However the British envoy did not think fit to go in person to the court of Morocco, and only sent thither, with her majesty's letter and present, Mr. Corbiere, his secretary, who was received with great demonstration of respect.

"About this time an indignity offered in London to count de Matucof, the Muscovite ambassador, was highly resented, not only by himself, but also by all concerned in the preservation of the rights and privileges of public ministers. Thomas Morton, a laceman in King-street, Covent-Garden, and some other tradesmen, to whom the ambassador owed several sums of money, amounting in the whole to about 300*l.*, finding he had taken his audience of leave, and being apprehensive, that he would leave the kingdom without paying his debts, though a merchant in the city, trading to Muscovy, had set a day for satisfying most of them, held several consultations together, and at last resolved to arrest him; which was done accordingly, on the 21st of July, in the open street, with several aggravating circumstances. For the ambassador, not knowing at first the reason of his being seized, imagining he was set upon by villains, struggled in his own defence, and was ill-used and overpowered by the bailiffs, who carried him to a spunging-house at the sign of the Black Raven, where he was detained till the earl of Feversham and a merchant of the city had bailed him. The ambassador, incensed at this insult, in violation of the laws of nations, applied himself for redress to the government; and the next day wrote a letter to Mr. Secretary Boyle, wherein he urged, "That the queen, who was so jealous of the respect due to the ambassadors of crowned heads, and had so gloriously vindicated the honour of the earl of Manchester, her ambassador at Venice, and caused a rigorous punishment to be inflicted on the officers of the custom-house, some of whom were set in the pillory, and others condemned to the gallies, only for insulting the gentlemen of his retinue, could not but most justly revenge the affront lately put upon him by a corporal punishment. That count Zobor, who was delivered up to the discretion of the king of Sweden for picking a quarrel with his envoy, likewise afforded an instance of the satisfaction he required, as being desirous of nothing with greater earnest, than to avoid all the ill consequences of this affair. For in case the criminals were connived at, under any colour whatsoever, he should be obliged to take other measures, and retire without recredentials, leaving the whole matter to the management of his Czarish majesty, his master, as the protector of his injured honour, and of his abused minister."

"At the same time count Gallas, the emperor's envoy, the baron Spanheim, ambassador from the king of Prussia, and several other foreign ministers, thinking themselves concerned in the affront put upon their character, demanded a due reparation for the same: all which having been laid before the queen, who still continued at Windsor, she expressed a very great resentment for the indignity offered to the Muscovite ambassador, and commanded an extraordinary council to be summoned on the 25th of July on that occasion. Mr. Morton, and some other creditors, with the attorney, bailiffs, and other persons concerned in the arrest of the ambassador, having been examined, were committed to the custody of several messengers, and ordered to be prosecuted with the utmost severity, according to law. The next day, before Mr. Boyle was returned from Windsor, the Muscovite ambassador wrote to him another letter, importing, "That, as he had not received any testimony of concern, or regret, either from the queen, or any of her ministers, since he had sent him his complaints in writing, he found himself obliged to press for his departure; and therefore intreated Mr. Secretary to get a passport for him as soon as possible." Mr. Boyle acquainted the ambassador, "That seven of the principal accomplices, in the desperate attempt upon his person, were committed to prison, and under prosecution, by order of the privy-council, who were to meet again about that affair as soon as possible." But the ambassador, being impatient to leave the kingdom, wrote a third letter on the 27th of July to Mr. Secretary, for a passport for himself and family. Mr. Boyle wrote, two days after, a letter to the ambassador, acquainting him, "That he had that morning sent him the passport he desired: that orders had been issued out to the officers of the custom-house to wait on him, to cause his equipages to be transported without any molestation; and he hoped, they had already done that to his satisfaction: that an extraordinary meeting of the queen's privy-council was to be held that day, to enquire further into the circumstances of that dismal affair; that they had made a strict search after those, who were any ways concerned therein; and had caused ten others to be apprehended: that express orders had been given again to the attorney-general, to prosecute the seventeen persons now confined, with the utmost rigour; and to omit nothing, that might contribute towards the making him the most signal reparation, that could be, according to our law." Notwithstanding these assurances, the ambas-

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sador refused the ordinary presents made to ministers of his character, which were offered him by the queen, and retired in disgust into Holland, from whence he transmitted a memorial, with a letter from the czar of Muscovy to the queen, dated the 17th of September, wherein that prince demanded no less than "that a capital punishment, according to the rigour of the law, be inflicted on all the accomplices of the indignity put upon the person of his ambassador; or, at least, such a one, as was adequate to the nature of the affront, which every particular person put upon the ambassador." Such a punishment being altogether inconsistent with the laws of England, this unlucky affair gave no small uneasiness to the queen and ministers *.

"On the 28th of October, about ten in the forenoon, died prince George of Denmark, in the 56th year of his age, after he had been twenty-five years and some months married to the queen. He had, for many years, been troubled with an asthma, and sometimes spitting of blood, which often endangered his life; and, about three months before, a dropsical humour, with which he had been formerly afflicted, seized his legs and most parts of his body. This was attended with a sleepiness, cough, and an increase of the asthma; and, on Saturday the 23d of October, the violence of the cough produced a spitting of blood, and an increase of the sleepiness, with an addition of convulsive motions of the tendons; which symptoms not yielding to the remedies administered by his own and several other physicians, he fell into a suffocation, and which neither bleeding, nor a vomit, could relieve him, so that he soon after expired. The queen, who, during the whole course of her marriage, had been a most tender and affectionate wife to him, in his last illness, which lasted some years, would never leave his bed, but sat up, sometimes half the night in the bed by him, with such care and concern that she was looked on very deservedly as a pattern in this respect. The prince was duke of Cumberland, Lord High-Admiral of Great Britain and Ireland, generalissimo of all her majesty's forces both by sea and land, and warden of the Cinque-ports. He had shewed himself brave in the wars both in Denmark and in Ireland. His temper was mild and gentle. He had made a good progress in mathematics. He had travelled through France, Italy, and Germany, and knew much more than he could well express; for he spoke acquired languages ill and ungracefully. He was free from all vice. He meddled little in business, even after the queen's accession to the crown. He was so gained by the Tories by the act which they carried in his favour, that he was much in their interest. He was unhappily prevailed with to take on him the post of Lord High-Admiral, of which he understood little, but was fatally led by those, that had credit with him, who had not all of them his good qualities, but had both an ill temper and bad principles. His being bred to the sea gained him some credit in those matters. In the conduct of our affairs, as great errors were committed, so great misfortunes had followed on them. As soon as the prince had resigned his last breath, the queen came from Kensington to her palace at St. James's, where she resided the whole winter. On the 11th of November, the body of his royal highness was carried from Kensington, to the Painted Chamber, within the palace of Westminster, where having lain in state till the 13th, it was that night interred in the Abbey-church, with all the pomp consistent with a private funeral.

"The death of prince George occasioned some alterations at court; for the earl of Pembroke was, on the 25th of November, advanced to the post of Lord High-Admiral, which he entered on with great uneasiness, and a just apprehension of the difficulty of maintaining it well in a time of war. He was at that time both lord-president of the council, and lord-lieutenant of Ireland. The earl of Wharton had the government of Ireland, who made Mr. Addison his secretary, and the lord Somers was made lord-president of the council. The great capacity and inflexible integrity of the lord Sommers would have made his promotion to this post very acceptable to the Whigs at any juncture, but it was most particularly so at this time; for it was expected, that propositions for a general peace would be quickly made: and so they reckoned, that the management of that, upon which not only the safety of the nation, but of all Europe depending, was in sure hands, when he was set at the head of the counsels, upon whom neither ill practices nor false colours were like to make any impression. Thus the minds of all those, who were truly zealous for the present constitution, were much quieted by this promotion, though their jealousies had a deep root, and were not easily removed.

"It may here be observed, that, notwithstand-

* Mr. Addison gave the following account of this affair, in a letter to the earl of Manchester, dated at the Cock-pit, July 23, 1708, O. S. and published in Cole's Memoirs of Affairs of State, p. 516. "We had an unlucky business about two days ago, that befel the Muscovite ambassador, who was arrested going out of his house and rudely treated by the bailiffs. He was then upon his departure for his own country, and the sum under an hundred pounds that stopped him; and, what makes the business worse, he has been punctual in his payments, and had given order, that this very sum should be paid the day after. However, as he is very well convinced, that the government entirely disapproves such a proceeding, there are no ill consequences apprehended from it. Your lordship knows, that the privileges of ambassadors are under very little regulation in England; and I believe, that a bill will be promoted in the next parliament for setting them upon a certain foot; at least it is what we talk of in both offices on this occasion."

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ing the duke of Marlborough's successes this year, and the queen's kind letter to him on occasion of his victory at Oudenard,* his interest with her began greatly to decline, through the intrigues of Mrs. Masham and Mr. Harley, all the summer*.

* The letter is printed in the Account of the duchess of Marlborough's Conduct, and was as follows:

"Windsor, July 6, 1708.

"I want words to express the joy I have, that you are well after your glorious success; for which, next to God Almighty, my thanks are due to you. And indeed I can never say enough for all the great and faithful services you have ever done me. But be so just as to believe, I am as truly sensible of them as a grateful heart can be, and shall be ready to shew it upon all occasions. I hope you cannot doubt of my esteem and friendship for you, nor think, that, because I differ with you in some things, it is for want of either. No, I do assure you, if you were here; I am sure you would not think me so much in the wrong in some things, as I fear you do now. I am afraid my letter should come too late to London, and therefore dare say no more, but that I pray God Almighty to continue his protection over you, and send you safe home again, and be assured I shall ever be sincerely

Your humble servant."

To this the Duke answered:

"Madam; July 23, 1708.

"I have the honour of your majesty's letter of the 6th, and am very thankful for all your goodness to me. And I am sure, it will be always my intention, as well as my duty, to be ready to venture my life for your service.

"As I had formerly told your majesty, that I am desirous to serve you in the army, but not as a minister, I am every day more and more confirmed in that opinion. And I think myself obliged upon all accounts on this occasion to speak my mind freely to you. The circumstances in this last battle, I think, shew the hand of God; for we were obliged, not only to march five leagues that morning, but to pass a river before the enemy, and to engage them before the whole army was passed, which was a visible mark of the favour of heaven to you and your arms.

"Your majesty shall be convinced from this time, that I have no ambition, or any thing to ask for myself or family. But I will end the few years, which I have to live, in endeavouring to serve you, and to give God Almighty thanks for his infinite goodness to me. But, as I have taken this resolution to myself, give me leave to say, that I think you are obliged in conscience, and as a good Christian, to forgive, and to have no more resentments to any particular person or party, but to make use of such as will carry on this just war with vigour; which is the only way to preserve our religion and liberties, and the crown on your head. Which that you may long enjoy, and be a blessing to your people, shall be the constant wish and prayer of him, that is with the greatest truth and duty, Madam, &c."

* The Duchess of Marlborough, in the Account of her Conduct, p. 206, observes, that the duke was perfectly sensible of the change in her majesty towards him; and, having complained of it in a letter to the duchess, she sent that letter to the queen, inclosed in the following one from herself:

"I cannot help sending your majesty this letter, to shew how exactly lord Marlborough agree with me in my opinion, that he has now no interest with you; though when I said so in the church on Thursday (August 19, 1708,) you were pleased to say it was untrue. And yet I think he will be surprized to hear, that when I had taken so much pain to put your jewels in a way, that I thought you would like, Mrs. Masham could make you refuse to wear them in so unkind a manner; because that was a power she had not thought fit to exercise before. I will make no reflections upon it; only that I must needs observe, that your majesty chose a very wrong day to mortify me, when you were just going to return thanks for a victory obtained by lord Marlborough."

In answer to this, the queen wrote the duchess these few words:

"Sunday.

"After the commands you gave me on the Thanksgiving-day of not answering you, I should not have troubled you with these lines, but to return the duke of Marlborough's letter safe into your hands, and for the same reason do not say any thing to that, nor to yours, which inclosed it."

Upon receiving this Letter, the duchess wrote again as follows:

"I should not trouble your majesty, with any answer to your last short letter, but to explain what you seem to mistake in what I said at church. I desired you not to answer me there, for fear of being overheard. And this you interpret, as if I had desired you not to answer me at all, which was far from my intention. For the whole end of my writing to you so often, was to get your answer to several things, in which we differed, that, if I was in the wrong, you might convince me of it, and I should very readily have owned my mistakes. But since you have not been pleased to shew them to me, I flatter myself, that I have said several things to you that are unanswerable. And, I hope some time or other you will find leisure to reflect upon them, and will convince lord Marlborough, that he is mistaken in thinking, that he has no credit with you, by hearkening sometimes to his advice; and then, I hope, you will never more be troubled with disagreeable letters from me: for I should be much better pleased to say and do every thing you like. But I should think myself wanting in my duty to you, if I saw you so much in the wrong, as without prejudice or passion I

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At the same time the lord Somers was made president of the council; the archbishop of York, the dukes of Montague and Montrose, the earls of Louden, Rivers and Essex; the lord Ferrers and Mr. Peregrine Bertie, were sworn of the privy-council; as, a little before, were

really think you are in several particulars I have mentioned, and did not tell you of it: and the rather because nobody else cares to speak out upon so ungrateful a subject. The word 'command,' which you use at the beginning of your letter, is very unfitly supposed to come from me. For though I have always writ to you as a friend, and lived with you as such for so many years with all the truth and honesty and zeal for your service, that was possible; yet I shall never forget, that I am your subject, nor cease to be a faithful one."

"Through the whole summer after Mr. Harley's dismission, the queen continued to have secret correspondence with him. And, that this might be the better managed, she staid all the sultry season, even when the prince was panting for breath, in that small house she had formerly purchased at Windsor, which, though as hot as an oven, was then said to be cold, because from the park such persons, as Mrs. Masham had a mind to bring to her majesty, could be let in privately by the garden. "And when," (continues the duchess of Marlborough) "upon the death of the prince, one would have thought, that her majesty's real grief would have made her avoid every place and every object, that might sensibly revive the remembrance of her loss, she chose for her place of retirement his closet, and for some weeks spent many hours in it every day. I was amazed at this; and, when I spoke to her of it, she seemed surprized, just like a person who on a sudden become sensible of her having done something she would not have done, had she duly considered. But the true reason of her majesty's chusing this closet to sit in, was, that the backstairs belonging to it came from Mrs. Masham's lodgings, who by that means could secretly bring to her whom she pleased. And that a correspondence was thus carried on with Mr. Harley, became every day more and more manifest by the difficulties and objections, which her majesty had learnt to raise against almost every thing proposed by her ministers. Nay, it is well known that Mr. Harley and his associates, when at length they had compassed their designs, and got into the management of affairs, did often (both in their cups and out of them) boast, that they, while the queen's ministers were asleep, were frequently at court, giving advice in secret, how to perplex them in all their measures.

"But they were much mistaken, if they imagined, that their proceedings at the time I am speaking of were so entirely covered. The ministers were fully convinced of the truth, and frequently represented to her majesty, what a discouragement it was to them in their endeavours for her service, to find, that she had no confidence in them, but was influenced by the counsel of others, who counter-worked them in every instance. Upon this subject I myself wrote and spoke a great deal to her with my usual plainness and zeal. But finding, not only that I could make no impression on her in this respect, but that her change towards me in particular was every day more and more apparent, I at length went to her, and begged to know what my crime was, that had wrought in her so great an alteration. This drew from the queen a letter, dated October 26, 1709, wherein she charges me with inveteracy (as her word is) against poor Masham; and with having nothing so much at heart as the ruin of my cousin. In speaking of the misunderstanding betwixt her majesty and me, she says, they are for nothing, that she knows of, but because she cannot see with my eyes, and hear with my ears. And adds, that it is impossible for me to recover her former kindness, but that she shall behave herself to me, as the duke of Marlborough's wife, and her groom of the stole. This declaration so plain and express of her majesty's thorough change towards me was the more extraordinary, as in this same letter are these words: 'you have asked me once or twice, if you had committed any fault, that I was so changed; and I told you, no, because I do not think it a crime in any one not to be of my mind.' Upon the receipt of letter, I immediately set myself to draw up a long narrative of a series of faithful services for about 26 years past; of the great sense, the queen formerly had of my services; of the great favour I had been honoured with on account of them; of the use I had made of that favour; and of my losing it now by the artifice of my enemies, and particularly of one whom I had raised out of the dust. And, knowing how great a respect her majesty had for the writings of certain eminent divines, I added to my narrative the directions given by the author of the whole Duty of Man with relation to friendship; the directions in the Common Prayer-book before the Communion with regard to reconciliation, together with the rules laid down by bishop Taylor upon the same head: and I concluded with giving my word to her majesty, that, if after reading these, she would please only to answer in two words, that she was still of the same opinion, as when she wrote that harsh letter, which occasioned her this trouble, I would never more give her the least trouble upon any subject, but the business of my office, as long as I should have the honour to continue her servant; assuring her, that, however she might be changed towards me, and how much soever we might still differ in opinion, I should ever remember, that she was my mistress and my queen, and should always pay her the respect due from a faithful servant and dutiful subject. I sent from St. Albans this narrative, which she promised to read and answer. And, ten days after, writing to me upon

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chief-justice Holt, the duke of Queensbury, the earls of Seafield, Scarborough, and Ranelagh, and lord Coningsby. The earl of Cholmondeley was made treasurer of the household in the room of the earl of Bradford, deceased, sir Thomas Felton comptroller, and Mr. Edmund Dunch master of the household. Sir James Montague attorney general, and Mr. Robert Eyre solicitor-general. The duke of Dorset was appointed the 3d of December, constable of Dover, and warden of the Cinque Ports.*"

This summer was, abroad, distinguished by the victory obtained at Oudenarde, which though both glorious and advantageous to the allies, was not so decisive as either that of Blenheim or Ramillies, the French making good their retreat and repelling all the attempts that were made to put them into confusion.—The siege of Lisle, one of the strongest places in the world, was next undertaken by the confederate generals, in the sight of an army superior to their own; which had posted themselves so advantageously, as to cut off all communication between the besiegers and Brussels; whereby ammunition of all sorts began to fail; and the consequences might have been greatly calamitous, if general Webb had not, with incredible conduct and bravery, both covered the grand convoy committed to his charge, and with a party of but 6,000, defeated an army of between 23, and 24,000, which had been detached to make sure of a supply which was of such immediate importance to the confederates. But the merit of this gallant action was by Mr. Cardonnel, the duke of Marlborough's secretary, ascribed solely to lieutenant general Cadogan, who did not come up till it was entirely over, and the enemy retreating in disorder; without the least mention of Mr. Webb, who thereupon quitted the army in disgust, and very frankly set forth the injury which had been done him, both to the queen and the whole nation.—In this interval the elector of Bavaria invested Brussels, but was kept at bay by the governor and garrison till the confederates passed the Scheld to their relief: Upon which he abandoned the siege in confusion leaving his artillery and wounded men behind him.—The town of Lisle had already capitulated, and now the citadel did the same. And the reduction of Ghent, which had been before betrayed to the French, finished the campaign on that side.—In Spain the duke of Orleans reduced Tortosa, Denin and Alicant: but to countervail these advantages sir John Leake conquered Sardinia, and general Stanhope Minorca: and in the West Indies Commodore Wager had an engagement with the Spanish galleons, in which the admiral blew up, another galleon was run ashore, and the rear-admiral was taken; being mounted with 54 brass guns, and her lading of an immense value.

another occasion, she said she had not leisure yet to read all my papers, but, when she had, she would send me some answer. But none ever came, nor had my papers any apparent effect of her majesty, except that, after my coming to town, as she was passing by me, in order to receive the Communion, she looked with much good nature, and very graciously smiled upon me. But the smile and pleasant look, I had reason afterwards, to think, were given to bishop Taylor and the Common-Prayer-book, and not to me."

* Tindal.

FIRST SESSION OF THE SECOND PARLIAMENT OF GREAT BRITAIN.

Meeting of the New Parliament.] November 16, 1708. The New Parliament met this day with great advantage; for the present ministry was now wholly such as gave an entire content to all, who wished well to the public affairs; and the great successes abroad silenced those who were otherwise disposed to find fault and complaint. The queen did not think it decent to come to parliament during this whole session; and therefore, having granted a Commission under the great seal, appointed the archbishop of Canterbury, the lord chancellor, the lord treasurer, the lord-steward, and the master of the horse, to represent her royal person, the Commons were desired to come up to the House of Peers, and hear the commission read. Which done, the lord chancellor signified to the Commons, that they should immediately proceed to the choice of a Speaker, and present him the Thursday following.

Sir Richard Onslow chosen Speaker.] The Commons being returned to their House, the lord William Powlet moved to chuse for their Speaker sir Richard Onslow, a worthy man, entirely zealous for the government, and very acceptable to the Whigs. He was seconded by sir William Strickland. But major general Mordaunt, by way of irony, proposed, that they should chuse Mr. Joddrel, the clerk of the House, 'who, having been assistant to good Speakers, to indifferent ones, and to the worst, seemed to be as well qualified for that station as any body.' But at last, general Mordaunt supported the lord Powlet's motion, commended sir Richard Onslow's experience and integrity; and added, 'That, being possessed of a good estate, he did not lie open to the temptations, that might bias persons, who had their fortunes to make against the interest of their country.'

And the House generally calling upon him to the chair: sir Richard Onslow, in his place, desired, that the House would please to excuse him, in respect of the many difficulties, that attended the discharge of so great a trust; declaring that his intercession to them proceeded from a real sense of his own inabilities, lest the service of the public might receive any prejudice by his incapacity; withal giving the House his humble thanks, for the great honour they had done in proposing him. Upon which the House unanimously calling upon him to

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the chair; the lord Wm. Powlett and sir Wm. Strickland conducted him from his place to the chair: but upon the first step he again said, that he was obliged to give them the trouble of a second request, that they would be pleased to excuse him, and out of the great many present to elect a more able person for so great a service; assuring them, that it proceeded not so much from form, as the sense of his own inabilities; and that it would be an insupportable trouble to him, if the public should suffer by any defects of his; and therefore again most earnestly desired to be excused. But the House cried, 'No, No.' And thereupon he sat down in the chair and the Serjeant at Arms came up, and laid the mace upon the table.* After this both Houses adjourned to the 18th.

List of the House of Commons.] The following is a List of the Members of the House of Commons:

A LIST of the HOUSE OF COMMONS in the Second Parliament of Great Britain, which met November 16, 1708.

Note, Those marked with a* were the Managers of the Impeachment at the Trial of Dr. Henry Sacheverel for High Crimes and Misdemeanours.

Abington,
William Huncks.
Agmondesham,
Francis Duncomb,
Sir Samuel Garrard.
Albans, (St.)
John Gape,
Joshua Lomax.
Aldborough, (Suffolk)
Sir Henry Thompson,
William Thompson.
Aldborough, (Yorkshire)
William Jessop,
Robert Moncton.
Allerton,
Sir William Hustler,
Roger Gale.
Andover,
* John Smith,
William Guidott.
Anglesea,
Lord Bulkeley.
Appleby,
Edward Duncomb,
* Nicholas Lechmere.
Arundel,
Lord Shannon,
Lord Lumley.
Ashburton,
Roger Tuckfield,
Robert Ball.
Aylesbury,
Sir John Whittewronge,
Simon Mayne.
Banbury,
Charles North.
Barnstaple,
Richard Ackland,
Nicholas Hooper.
Bath,
Alexander Popham,
Samuel Trotman.
Beaumaris,
Henry Bertie.
Bedfordshire,
Lord Russel,
Sir William Gostwick.
Bedford Town,
William Farrer,
William Hillersden.
Bedwin,
Lord Bruce,
Samuel Sambrook.
Berkshire,
Sir John Stonehouse,
Richard Nevil.
Berwick Town,
Samuel Ogle,
Jonathan Hutchinson.
Beverley,
Sir Charles Hotham,
Sir Michael Wharton.
Bewdley,
Charles Cornwall.
Bishop's Castle,
Richard Harnage,
Charles Mason.
Bletchingly,
Thomas Onslow,
George Evelyn.
Bodmin,
Russel Roberts,
John Trevanion.
Boralston,
* Spencer Cowper,
* Sir Peter King.
Boroughbridge,
Sir Bryan Stapleton,
Craven Peyton.
Bossiney,
Samuel Travers,
Francis Foot.
Boston,
Peregrine Bertie,
Richard Wynn.
Brackley,
William Egerton,
Charles Egerton.
Bramber,
William Hale,
Sir Cleave More.
Brecon County,
Sir Edward Williams.
Brecon Town,
Sir Jeffrey Jeffreys.
Bridgewater,
George Dodington,
George Balch.
Bridport,
Thomas Strangeways,
William Coventry.
Bristol,
Robert Yate,
Sir William Daines.
Bridgnorth,
William Whitmore,
Sir Humphry Briggs.
Buckinghamshire,
Sir Edmund Denton,
Richard Hampden.
Buckingham Town,
Sir Richard Temple,
Alexander Denton.
Calne,
Edward Baynton,
George Ducket.
Cambridgeshire,
Sir Rushout Cullen,
John Bromley.
Cambridge Town,
John Hynde Cotton,
Samuel Shepherd.
Cambridge University,
Arthur Annesley,
Dixey Windsor.
Camelford,
Richard Munden,
John Manley.
Canterbury,
Edward Watson,
Thomas D'Aeath.
Cardiffe,
Sir John Awbrey.
Cardiganshire,
Lewis Price.
Cardigan Town,
Sir Simon Harcourt.
Carlisle,
Thomas Stanwix,
* Sir James Montagu.
Carmarthenshire,
Griffith Rice.
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
Sir John Wynn.
Carnarvon Town,
William Griffith.
Castle Rising,
William Fielding,
Horatio Walpole.
Cheshire,
Langham Booth,
Crew Offley.
Chester City,
Sir Henry Bunbury,
Peter Shackerly.
Chichester,
Richard Farrington,
Thomas Carr.
Chippenham,
Sir James Long,
James Montagu.
Chipping-Wicomb,
Charles Godfrey,
Fleetwood Dormer.
Christ's Church,
Francis Gwynn,
William Ettricke.
Cirencester,
Allen Bathurst,
Charles Cox.
Clifton,
Nathaniel Herne,
Frederick Herne.
Clithero,
Edward Harvey,
Christopher Parker.
Cockermouth,
* James Stanhope,
Albemarle Bertie.
Colchester,
Sir Isaac Rebow,
Sir Thomas Webster.
Corfcastle,
John Banks,
Richard Fownes.
Cornwall,
James Butler,
Hugh Boscawen.

* "The Tories, upon a surmise that the court or Whig party would have been divided between sir Richard Onslow and sir Peter King, recorder of London, had designed to have put up sir Thomas Hanmer; but, being disappointed in that expectation they thought it prudent, not being able to make a majority, unanimously to concur with the rest. Indeed, the Tories perceived they had so little strength in this parliament, that they resolved to lie silent, and to wait for such advantages, as the circumstances of the affairs might afford them. The same day, the duke of Queensberry was introduced into the House of Peers by the dukes of Somerset and Ormond, as a peer of Great-Britain, and duke of Dover." Tindal.

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Coventry,
Sir Orlando Bridgman,
Edward Hopkins.
Cricklade,
James Vernon,
Edmund Dunch.
Cumberland,
James Lowther,
Gilfred Lawson.
Denbigh County,
Sir R. Middleton.
Denbigh Town,
Sir William Williams.
Derbyshire,
John Curzon,
Thomas Coke.
Derby Town,
Lord Cavendish,
* Sir Thomas Parker.
Devizes,
Paul Methuen,
Josiah Diston.
Devonshire,
Sir William Courtney,
John Rolle.
Dorchester,
John Churchill,
Awnsham Churchill.
Dorsetshire,
Thomas Chaffin,
Thomas Strangeways.
Dover,
Philip Papillon,
Matthew Aylmer.
Downton,
John Eyre,
Sir Charles Duncomb.
Droitwich,
Edward Jeffreys,
Richard Foley.
Dunwich,
Sir Richard Allen,
Daniel Harvey.
Durham County,
William Vane,
Sir Robert Eden.
Durham City,
James Nicholas,
Thomas Conyers.
Eastlow,
Henry Trelawney,
Sir Henry Seymour.
Edmund's Bury,
Joseph Weld,
Awbery Porter.
Essex,
Thomas Middleton,
Sir Francis Marsham.
Evesham,
Sir Edward Goodere,
John Rudge.
Exeter,
Nicholas Wood,
John Harris.
Eye,
* Spencer Compton,
Sir John Jekyll.
Flintshire,
Sir R. Mostyn.
Flint Town,
Sir John Conway.
Fowey,
Henry Vincent,
John Granville.
Gatton,
Sir George Newland,
Paul Docminique.
Germans (St.)
Francis Scobell,
Edward Elliot.
Glamorgan,
Sir Thomas Mansel.
Gloucestershire,
Sir John Guise,
Matthew Moreton.
Gloucester City,
Thomas Webb,
William Cook.
Grampound,
Thomas Scawen,
James Craggs.
Grantham,
Lord Granby,
Sir William Ellis.
Grimsby,
Arthur Moore,
William Cotesworth.
Grimstead,
Richard Lumley,
Henry Champion.
Guildford,
Denzil Onslow,
Morgan Randell.
Harwich,
Sir John Leak,
Thomas Frankland.
Haslemere,
Sir Theoph. Oglethorp,
Thomas Onslow.
Hastings,
William Ashburnham,
John Pulteney.
Haverford,
William Wheeler.
Helston,
Francis Godolphin,
Sidney Godolphin.
Herefordshire,
John Price,
Lord Scudamore.
Hereford City,
Thomas Foley,
James Bridges.
Hertfordshire,
Ralph Freeman,
Thomas Halsey.
Hertford Town,
William Monson,
Sir Thomas Clark.
Heydon,
Hugh Cholmondely,
William Pulteney.
Heytesbury,
William Ash,
Edward Ash.
Higham Ferrers,
Thomas Wentworth.
Hindon,
Edmund Lambert,
Sir James How.
Honiton,
Sir William Drake,
Sir Walter Young.
Horsham,
John Wicker,
Charles Eversfield.
Huntingdonshire,
John Proby,
John Pocklington.
Huntingdon Town,
Francis Page,
Edward Wortley.
Hythe,
John Faue,
John Boteler.
Ilcester,
Edward Philips,
James Johnson.
Ipswich,
Sir William Barker,
William Churchill.
Ives, (St.)
John Praed,
John Borlace.
Kellington,
Sir William Coriton,
Samuel Rolle.
Kent,
Sir Thomas Palmer,
David Polhill.
Kingston,
William Maisters,
Sir William St. Quintin.
Knaesborough,
Robert Byerley,
Christopher Stockdale.
Lancashire,
James Stanley,
Richard Shuttleworth.
Lancaster Town,
Robert Heysham,
William Heysham.
Lanceston,
William Carey,
Lord Hyde.
Leicestershire,
Sir Gilbert Pickering,
Sir Jeffrey Palmer.
Leicester Town,
Sir George Beaumont,
James Winstanley.
Leominster,
* Thomas Coningesby,
Edward Harley.
Leskard,
* John Dolben,
William Bridges.
Lestwithiel,
Joseph Addison,
Hugh Fortescue.
Lewes,
Peter Gott,
Thomas Pelham,
Lincolnshire,
Lord Willoughby,
George Whichcott.
Lincoln City,
Thomas Lister,
Sir Thomas Meers.
Litchfield,
Sir Michael Biddulph,
John Coates.
Liverpool,
Richard Norris,
Sir Thomas Johnson.
London,
Sir William Withers,
Sir William Ashurst,
Sir Gilbert Heathcote,
Samuel John Ward.
Ludlow,
Acton Baldwyn,
Sir Thomas Powis.
Luggershall,
Robert Bruce,
John Webb.
Lyme,
Thomas Freak,
John Burridge.
Lymington,
Richard Chandler,
Paul Burrard.
Lynn,
Sir Charles Turner,
* Robert Walpole.
Maidstone,
Sir Robert Marsham,
Sir Thomas Colepeper.
Malden,
Sir Richard Child,
Thomas Richmond.
Malmsbury,
Thomas Farrington,
Henry Mordaunt.
Malton,
Thomas Worsley,
Thomas Harrison.
Marlborough,
James Bruce,
Algernoon Seymour.
Marlow,
Sir James Etheridge,
James Chace.
Mawes,
John Tredenham,
Francis Godfrey.
Melcomb,
Maurice Ashley,
Anthony Henley.
Merioneth,
Richard Vaughan.
Midhurst,
Laurence Alcock,
Thomas Meredith.
Middlesex,
Sir John Wolstonholm,
Scory Barker.
Milbourn,
Sir Thomas Treval,
Thomas Smith.
Minehead,
Sir John Trevelyan,
Sir Jacob Banks.
Michael, (St).
Hugh Fortescue,
Sir William Hodges.
Monmouthshire,
John Morgan,
Lord Windsor.
Monmouth Town,
Clayton Milbourn.
Morpeth,
Sir Richard Sandford,
Sir John Bennet.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
John Pugh.
Newark,
Richard Sutton,
James Saunderson.
Newcastle, (Staffordsh.)

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Crew Offley,
John Lawton.
Newcastle (Northum.)
William Carr,
Sir Henry Lyddel.
Newport, (Cornwall)
Sir Nicholas Morrice,
Sir Will. Pole.
Newport, (Hants.)
Sir Tristram Dillington,
William Stevens.
Norfolk,
Sir John Holland,
Ash Windham.
Northamptonshire,
Sir Justinian Isham,
Thomas Cartwright.
Northampton Town,
George Montagu,
Francis Arundel.
Northumberland,
Thomas Forster,
Lord Hertford.
Norwich,
Waller Bacon,
John Chambers.
Nottinghamshire,
Sir Thomas Willoughby,
John Thornhaugh.
Nottingham Town,
John Plumtree,
Robert Sherwyn.
Okehampton,
John Dibble,
Christopher Harris.
Orford,
Clement Corrence,
William Thompson.
Oxfordshire,
Lord Rialton,
Sir Robert Jenkinson.
Oxford City,
Sir John Walter,
Thomas Rowney.
Oxford University,
Sir William Whitlock,
Will. Bromley.
Pembrokeshire,
Wiriot Owen.
Pembroke Town,
Sir Arthur Owen.
Penryn,
James Vernon,
Samuel Trefusis.
Peterborough,
Sidney Wortley,
Sir Gilbert Dolben.
Petersfield,
Leonard Bilson,
Norton Powlett.
Plymouth,
Charles Trelawney,
Sir George Byng.
Plympton,
Richard Edgcomb,
George Treby.
Pool,
William Lowen,
Thomas Ridge.
Pontefract,
Sir John Bland,
William Lowther.
Portsmouth,
Thomas Erle,
Henry Churchill.
Preston,
Henry Fleetwood,
Arthur Maynwaring.
Queenborough,
Henry Withers,
Sir John Jennings.
Radnor County,
Thomas Harley.
Radnor Town,
Robert Harley.
Reading,
Owen Buckingham,
Anthony Blagrave.
Retford,
Thomas White,
William Levinz.
Richmond,
John York,
* Henry Mordaunt.
Rippon,
John Aislaby,
John Sharp.
Rochester,
Sir Staff. Fairborne,
Sir John Leak.
Romney,
Walter Whitfield,
John Brewer.
Rutlandshire,
Philip Sherrard,
Richard Halford.
Rye,
Philip Gibbons,
Sir John Norris.
Ryegate,
James Cocks,
Sir John Parsons.
Salop County,
Lord Newport,
Sir Robert Corbet.
Salop Town,
Sir Edward Leighton,
John Jones.
Saltash,
Alexander Pendarvis,
Sir Cholmond. Dering.
Sandwich,
Sir Henry Furnese,
Josiah Burchet.
Sarum, New
* Robert Eyre,
Charles Fox.
Sarum, Old
William Harvey,
Robert Pitt.
Scarborough,
William Thompson,
John Hungerford.
Seaford,
William Lowndes,
George Naylor.
Shaftsbury,
Sir John Cropley,
Edward Nicholas.
Shoreham,
Richard Lloyd,
Gregory Page.
Somersetshire,
Henry Portman,
Henry Prowse.
Southampton County,
Lord Winchester,
Thomas Jervoice.
Southampton Town,
Adam DeCardonnel,
Simon Stuart.
Southwark,
John Cholmondeley,
Charles Cox.
Staffordshire,
Henry Pagett,
John Wrottesly.
Stafford Town,
Thomas Foley,
Walter Chetwynd.
Stamford,
Charles Cecil,
Charles Bertie.
Steyning,
Robert Fagg,
Henry Goring.
Stockbridge,
* Sir John Hawles,
Sir Edward Laurence.
Sudbury,
Philip Skippon,
Sir Harvey Elwys.
Suffolk,
Sir Thomas Hanmer,
Sir Robert Davers,
Surrey,
Sir Richard Onslow,
Sir William Scawen.
Sussex,
Sir Henry Peachy,
Peter Gott.
Tamworth,
Joseph Gilder,
Richard Swinsen.
Tavistock,
Sir John Cope,
Henry Manaton.
Taunton,
Sir Francis Warre,
Edward Clarke.
Tewksbury,
Richard Dowdeswell,
Henry Ireton.
Thetford,
Robert Baylis,
Thomas De Grey.
Thirsk,
Sir Thomas Frankland,
Leonard Smelt.
Tiverton,
Thomas Bere,
Richard Mervin.
Totness,
Sir Edward Seymour,
George Courtenay.
Tregony,
Anthony Nicholl,
Thomas Hern.
Truro,
Henry Vincent,
Robert Furnese.
Wallingford,
Thomas Reuda,
Grey Nevill.
Warwickshire,
Sir John Mordaunt,
Andrew Archer.
Warwick Town,
Francis Grevill,
Doddington Grevill.
Wareham,
Thomas Erle,
George Pitt.
Wells,
Edward Coulston,
William Coward.
Wendover,
Sir Roger Hill,
Thomas Ellis.
Wenlock,
Sir William Forrester,
Thomas Weld.
Weobly,
John Birch,
Henry Gorges.
Westbury,
Henry Bertie,
Francis Annesley.
Westlow,
Sir Charles Hedges,
John Conyers.
Westminster,
* Henry Boyle,
Thomas Medlicot.
Westmoreland,
Daniel Wilson,
James Graham.
Weymouth,
Charles Churchill,
Edward Clavell.
Whitchurch,
Richard Woolaston,
George Bridges.
Winchelsea,
Sir Francis Dashwood.
Robert Bristow.
Winchester,
* Lord Pawlett,
George Bridges.
Windsor,
Lord Fitzharding,
Richard Topham.
Wilton,
Sir Lambert Blackwell,
Charles Mompesson.
Wiltshire,
Sir Richard How,
Robert Hyde.
Woodstock,
Sir Thomas Wheat,
William Cadogan.
Wooton Basset,
Francis Popham,
Robert Cecil.
Wygan,
Roger Bradshaw,
Henry Bradshaw.
Worcestershire,
Sir John Packington,
Sir T. Cookes Windford.
Worcester City,
Thomas Wild,
Samuel Swift.
Yarmouth (Norf.)
Roger Townshend,
Richard Farrier.
Yarmouth (Hants.)
Henry Holmes,
Anthony Morgan.
Yorkshire,
Lord Downe,
Sir William Strickland.
York City,
Sir William Robinson,
Robert Benson.

Sir R. ONSLOW, Speaker.

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The New Speaker presented, and approved of.] Nov. 18. The Lords Commissioners, in their robes, being seated on a form placed between the throne and the woolsack; commanded the deputy gentleman usher of the Black Rod to go to the House of Commons, and desire their attendance in the House of Peers. Who being come;

Sir Richard Onslow said, "My lords, The Commons of Great Britain, assembled by virtue of the queen's royal writ, and in obedience to commands, have elected their Speaker. Being made the unworthy subject of that choice, I am obliged to tender myself for approbation. May my most humble intercession to your lordships to disapprove this choice obtain pardon; proceeding not so much from form, as a sense of my own inabilities; lest the service of the crown, and that of Great Britain, should suffer by any defects of mine; a misfortune of that nature being much too great for me to support myself under."

Then the *Lord Chancellor* (Cowper) said,

"Gentlemen of the House of Commons; By virtue of her majesty's commission to us (among other lords) directed, we do, in her majesty's name, approve of the choice you have made, of so worthy a person to be your Speaker: and do allow of, and confirm you, sir Richard Onslow, to be their Speaker."

The Speaker's Speech thereon.] Then Mr. *Speaker* said, "It is my duty, to submit most humbly to acknowledge this honour conferred on me; to give assurances of my utmost endeavours to deserve the continuance of the queen's favours; and to supply my inabilities by a faithful and diligent application to the dispatch of those great and arduous affairs for which this parliament is convened. In discharge of my duty to the Commons; I demand Liberty of Speech; that their Debates may be free, the better to enable them to make suitable provisions for the support of the common cause. That nothing may interrupt the attendance of the members, freedom from arrest for themselves and servants; and that their properties may not be disturbed. And, that the queen may have a true state of their proceedings, access to her royal person, so often as the service of the public represents it necessary.—My lords; I presume to ask as ample a grant of these privileges as ever were made to any preceding Commons; believing, no prince ever had any more loyal, or more deserving so great a trust.—My lords; The very melancholy and unhappy occasion for opening this parliament by commission obliges my intercession to your lordships, for such a favourable representation to the queen, as may incline her majesty to pardon my involuntary errors, and that such only be imputed to the unfortunate author; believing, no consideration can ever prevail with me, intentionally, to do any act contrary to the true interest of the crown, which, undeniably, is that of my country; to which service, as I always have, I now entirely resign myself, without any other consideration whatsoever."

Then the *Lord Chancellor* said, "Mr. Speaker; We have it in command from her majesty to let you know, that her majesty is fully assured of the discretion and temper, as well as the good affections, of the House of Commons: and as to the suit you have made in their name; that her majesty is pleased to grant to them all their privileges, in as full a manner as they were at any time granted or allowed by any of her royal predecessors: and as to what you have prayed in relation to yourself; you may be assured, her majesty will put the most favourable construction on your words and actions, in the execution of your duty of Speaker of the House of Commons, if ever you should stand in need of it; whose loyalty, integrity, great experience, and abilities in the business and usages of parliament, are so well known."

The Queen's Speech, by Commissioners, on opening the Session.] Then the Lord Chancellor opened the session with the following Speech to both Houses:

"My Lords, and Gentlemen; In pursuance of the authority given us by her majesty's commission under the great seal, among other things, to declare the causes of her majesty's calling this parliament;—we are, by her majesty's command, in the first place, to observe to you, that the extraordinary length of this year's campaign hath obliged her majesty to defer your meeting longer than otherwise she would have done; that you might be informed with the greater certainty of the state and posture of the war, in order to your resolutions for the ensuing year.—This necessary delay hath now so far shewn us the success of affairs abroad, as that, whether you consider the places acquired by the allies, or the farther and continued proofs given this last year of their superior courage and conduct, (which, as to the future part of the war, is equal to all other advantages,) we may, with thanks to God, and justice to those he hath been pleased to use as instruments in this great work, conclude, that, upon the whole, we are brought much nearer than we were the last session, to the end of our undertaking this war, the reducing the dangerous power of France, and settling such a peace as may secure itself from being violated.—Her majesty therefore commands us to assure you, she hath not the least doubt, but that this parliament will be of the same opinion with her last, as to the vigorous prosecution of the war, and the ends of it; believing it impossible, the representative of the British nation can endure to think of losing the fruits of all our past endeavours, and the great advantages we have gained (particularly in this present year,) by submitting at last to an insecure peace.—And therefore, since probably nothing can hinder our success abroad, for the time to come, but misunderstandings among ourselves at home, we have it in command, to conjure you, by your duty to God and to her majesty, your zeal for the Protestant religion, your love for your country, and the regard you cannot but have for the liberty of Europe in

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general, to avoid all occasion of divisions, which are ever hurtful to the public; but will more especially be so at this juncture, when the eyes of all our neighbours are upon you with a very particular concern; and your unanimity and good agreement will be the greatest satisfaction and encouragement to all our allies.

"Gentlemen of the House of Commons; You cannot but be convinced, that the several parts of the war, which were provided for by the last parliament, will require your support, at least in the same degree; but in Flanders the nature of the war is much altered, by the great advances made there towards entering into France; which hath so far alarmed our enemies, that they are drawing more troops daily to that side, for the defence of their own country; and therefore her majesty hopes you will have so right a sense of our present advantages, as to enable her majesty to make a considerable augmentation for preserving and improving them, which, by the continuance of God's blessing on our arms, must soon put a glorious period to this long and expensive war.—As to the condition of the fleet, we have it in command from her majesty to acquaint you, that the constant and remote services in which the ships have been employed have made a greater sum than usual requisite, as well for the extraordinary repairs, as the building of new ships. And the taking of Port Mahon, as it hath afforded the means of having a part of the fleet operate with more readiness and effect on the enemy, or wherever it may be useful to the common cause in those parts; so the making such provisions, at so great a distance as will be proper for that service, must of necessity cause some extraordinary expences. All which her majesty recommends to your serious consideration; desiring you to provide timely and effectual supplies for those ends, and likewise for the carrying on such fortifications, for the security of our ports, and extinguishing the enemy's hopes of profiting by disturbances in Scotland, as you shall think fit.

"My Lords and Gentlemen; The Union is esteemed by her majesty to be so happy and great a part of the successes of her reign, and her majesty hath so much at heart the confirming and improving it, that she is pleased to command us to remind you of preparing such bills as shall be thought conducing to that end; and particularly, to make the laws of both parts of Great Britain agree, as near as may be, for the common interest of both people, especially as to those laws which relate to criminal cases and proceedings, and settling the militia on the same foot throughout the United Kingdom.—Her majesty is graciously pleased, we should also assure you, that, if you can propose any means for the improvement of our trade or manufactures, or better employment of the poor, her majesty will take the greatest satisfaction in enacting such provisions; there being nothing she so earnestly desires, as that God would bless her with more and more opportunities of doing all possible good to so well deserving a people, so firm and affectionate to her interests.—And as her majesty doth not doubt, by God's blessing, and your good affections, to continue to defeat the designs of the Pretender, and his open or secret abettors: so her majesty will always endeavour, on her part to make her people happy, to such a degree, as that none (except of desperate fortunes) shall enter into measures for the disturbance of her government, the Union, or the Protestant Succession as by law established; without acting, at the same time, manifestly against their own true and lasting interest, as well as their duty."

The Lords' Address thereon.] The Lords agreed upon the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, cannot forbear condoling with your majesty, upon your great loss sustained in the person of the Prince, whose eminent virtues must render his memory ever dear to us, and to the whole kingdom.—But we are at the same time bound in duty to beseech your majesty, that you would moderate your grief, and take care of your health, upon which the hopes and comfort of your people, and the safety of Europe, doth so much depend.—We congratulate your majesty upon the happy and glorious progress of your arms, which, we hope, by the blessing of God, will be carried yet farther before the end of this campaign: And we humbly assure your majesty, that we will give our utmost assistance in every thing for the prosecuting of this just and necessary war; being more and more convinced, that no peace can be safe and honourable, until the whole monarchy of Spain be restored to the House of Austria.—And we most earnestly desire, that, at a time when your own subjects are making such extraordinary efforts for supporting the common cause, your majesty would use your most pressing instances with your allies, to shew a suitable vigour; and particularly with those the interest of whose family is more nearly concerned in this present war.—It is a great pleasure to find the satisfaction your majesty expresses for having accomplished the Union. And as we were very early in declaring our desires for beginning a treaty, and very zealous in our endeavours to bring it to a happy conclusion; so we shall never be wanting to do all that is possible on our parts, to make it perfect, and a blessing to the whole island.—We think ourselves obliged, in duty, to declare to your majesty, that we will, at the expence of our lives and estates, support and defend your majesty's royal person and government, and the Protestant Succession as by law established, against all pretenders, and all your enemies whatsoever."

The Queen's Answer.] The marquis of Dorchester reported her majesty's most gracious Answer: "That her majesty thanked the House of Lords very kindly for their Address, as well

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as for the manner of sending it to her on this occasion."

The Commons resolved, *nem. con.*, That an humble Address should be presented to her majesty, to condole with her upon the death of his royal highness prince George of Denmark, and desire her majesty to take care of her royal person (upon whose health the happiness of the kingdom, and the liberties of Europe so much depends) and to assure her majesty, that the Commons of Great Britain would support her against all her enemies, both at home and abroad.

On the same day, they came to a Resolution upon another Address to the queen, to congratulate her on the glorious success of her arms, and those of her Allies in this present war; and to assure her majesty of their utmost endeavours, to enable her to carry on a vigorous war against the common enemy, until the liberties of Europe might be secured by a safe and honourable peace, and also to support and defend her majesty, and the Succession as by law established in the Protestant line, against the Pretender and all his open and secret abettors. The first of these Addresses being reported to the House on the 23d, by Mr. Bromley, and the other the same day by sir William Strickland; the House ordered, that such members of that House as were of the privy-council, should attend the queen, and humbly know her majesty's pleasure, when and in what manner she would be pleased to be attended with the said Addresses. Those gentlemen attending accordingly, Mr. Secretary Boyle reported, that her majesty was graciously pleased to answer: "That she took very kindly the application of the House to her in that manner; and that it was her majesty's pleasure, that such Addresses as the House of Commons desired at that time to present to her majesty, should be delivered to her by such members of that house, as were of her majesty's most honourable privy-council."

The Commons' Address of Condolance.] The Address of Condolance was as follows:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, take this first opportunity of expressing to your majesty, the deep sense we have of the great loss your majesty and this kingdom have sustained in the death of his royal highness prince George of Denmark, whose tender affection to your majesty, and love to our country, had gained him the hearts of all your good subjects, and will render his memory ever dear to them.—We humbly beseech your majesty to moderate the grief so justly due on this sad occasion, since it cannot be indulged without endangering the health of your royal person, on whose safety the happiness of Great Britain, and the liberties of Europe do (under God) depend.—Your faithful Commons think themselves obliged more particularly at this time, to assure your majesty of their inviolable fidelity to your person and government, and of their firm resolution effectually to support your majesty against all your enemies both at home and abroad."

The Queen's Answer.] Her majesty's most gracious Answer: "That her majesty thanks you very kindly for this Address; and, that the concern which the House has expressed for her affliction, is very acceptable to her majesty."

The Commons' Address of Congratulation for the Success of her Arms.] The Address of Congratulation ran thus:

"Most gracious Sovereign: We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to congratulate the glorious successes of this year, gained by the arms of your majesty, and those of your Allies.—The great and signal advantages that have been so wonderfully obtained, so vigorously prosecuted and improved, and upon all occasions so happily accomplished, are repeated instances that no difficulties are insuperable to your great commanders, and no force of the enemy able to obstruct the progress of your victorious arms; which give us good grounds to hope for further success, before the conclusion of this long and active campaign.—Your majesty's good subjects, through the whole course of this war, have most cheerfully granted the necessary supplies, for supporting and carrying it on with vigour; and have seen such good fruits of their former zeal, that your majesty may be assured this House will never be wanting in their duty to your majesty, or the interest of those they represent; but are determined to give such supplies, as, by the blessing of God, may be the most effectual for reducing the power of the common enemy, and forcing him to accept such a peace, as your majesty, in conjunction with our allies, shall think honourable and lasting.—The Union is so great a glory to your majesty, and advantage to all your people, that we shall do every thing on our part, to strengthen and improve it; but above all, it shall be our utmost care, to defend your majesty's sacred person, to support your undoubted title to the crown, to disappoint the hopes and designs of the Pretender and all his open and secret abettors, and to maintain the Protestant Succession as by law established."

The Queen's Answer.] Her majesty's most gracious Answer:

"That her majesty returns you many thanks for all the hearty assurances you have given her in this Address, particularly for those of assisting her, in bringing the war to a safe and happy conclusion, which her majesty does very much desire, for the ease and security of her people: and as she does entirely depend upon your dispatch of the supplies necessary to that end, so she hopes God Almighty will still continue to bless the endeavours of her majesty and her subjects, for the good of the common cause."*

"* The proceedings in both Houses this session were agreeable to the directions given at court; for, the court being now joined with the

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The Peers of Scotland's eldest Sons incapacitated to sit in Parliament.] Dec. 3. The Commons took into consideration that part of the Act for uniting the two kingdoms, which relates to the election of members to serve in that House, for that part of Great Britain called Scotland; and having heard counsel, and the petitions and representations relating to the incapacity of the eldest sons of Scots peers, to represent the Commons of Scotland in the parliament of Great Britain, being read, the substance, both of the counsel's arguments, and of those representations, was, That by an act of the Scots parliament, intitled, 'An act 'for settling the manner of electing sixteen 'peers, and forty-five commoners,' to represent Scotland, in the parliament of Great Britain; which act was ratified by the 'Act for uniting the two kingdoms,' it was declared, 'That none 'shall be capable to elect, or be elected, to re-'present a Shire or Burgh in the parliament of 'Great Britain, for that part of the united king-'dom, except such as were then capable to 'elect or be elected, as commissioners for 'Shires or Burghs to the parliament of Scot-'land.' That from hence it evidently followed that the Scots peers eldest sons could not sit in the House of Commons of Great Britain, unless it did appear, that they were capable to be elected, and to sit as members of the parliament of Scotland: but, as a proof of the contrary, several instances were alledged of their being always rejected by the parliament of Scotland; and, in particular, the viscount Tarbat's eldest son, in the year 1689. That the fundamental law of the Union had most expressly reserved to the Commons of Scotland, that valuable privilege of electing their representatives in parliament, from among the best qualified gentlemen of their own number and state, in the same manner as they had formerly used to do. That in electing members of parliament, the choice of the electors ought to be made as free as is possible from the influence either of bribes or threats; and in justice, should only be determined by the honesty and candour of the person to be chosen; that his character be such as promises a faithful discharge of so great a trust: and that his inclination be accompanied with a sufficient capacity to serve the particular interest of his constituents, as well as the general interest of his country. But that few in Scotland could be supposed to be in a condition to maintain this character, the Commons there being surrounded with a numerous and powerful peerage; who, like so many sovereigns, judge and determine, within their respective bounds, in criminal as well as civil matters, being vested with vast superiorities and heretable jurisdictions; so that no commoner holding any part of his lands of a peer, or indeed being in his neighbourhood, could be reckoned at liberty to make a free election of his representative: so that the Commons of Scotland, whereof the majority of their parliament consisted, had invincible arguments for preserving entire to themselves, that necessary privilege of excluding their peers' eldest sons, from being members of that House. That if the parliament of Scotland, which consisted of peers and commoners sitting together in the same house, enjoying the same liberty of speech, and the same common privilege, and judicative capacity, being also restricted to the same rules and forms, had so many weighty reasons for excluding their peers' eldest sons, how many more arguments, of greater moment, might be urged in the House of Commons of Great Britain, who subsisted a separate and distinct House from the peers; enjoying by themselves, so many valuable privileges and immunities, which could not be encroached upon, or subjected to a House of Peers, without endargering the whole constitution of the House of Commons? and, in the last place, that England and Scotland being now united, and their interests inseparably joined, it ought to be a maxim with all true Britons, that the liberty of the Commons of Scotland, will always be an advantage to those of England; and that the slavery of the first cannot fail ending in the destruction of the latter. Little was offered, on the other side, against these arguments; so that the question being put, "That the eldest sons of the peers of Scotland were capable by the laws of Scotland at the time of the Union, to elect or be elected, to represent any shire or borough in Scotland, to sit in the House of Commons of Great Britain," it passed in the negative.—In pursuance of which, three days after, the Commons ordered their Speaker to issue out his warrants to the clerk of the crown, to make out new writs for the electing commissioners to serve in this present parliament for the shire of Aberdeen, in the room of William lord Haddo son of the earl of Aberdeen; and for the shire of Linlithgow, in the room of James lord Johnstown, son of the marquis of Annandale; who being eldest sons of peers of Scotland, were declared to be incapable to sit in that House.

Debate concerning the Election of the Peers of Scotland.] A petition of a new nature was likewise brought before the Lords, with relation to the election of the peers from Scotland. There was a return made in due form; but a petition was laid before the House in the name

Whigs they had a clear majority in every thing; all elections were judged in favour of Whigs and Courtiers, but with so much partiality, that those, who had formerly made loud complaints of the injustice of the Tories, in determining elections, when they were a majority, were not so much as out of countenance, when they were reproached for the same thing: they pretended they were in a state of war with the Tories, so that it was reasonable to retaliate this to them, on the account of their former proceedings: but this did not satisfy just and upright men, who would not do to others that which they had complained of, when it was done to them, or to their friends." Tindal.

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of four Lords, who pretended, that they ought to have been returned. The duke of Queensberry had been created a duke of Great Britain by the title of duke of Dover; yet he thought he had still a right to vote as a peer of Scotland. He had likewise a proxy; so that two votes depended on this point, whether the Scots peerage did sink into the peerage of Great Britain. Some Lords, who were prisoners in the castle of Edinburgh on suspicion, as favouring the Pretender, had sent for the Sheriff of Lothian to the castle, and had taken the oaths before him; and upon that were reckoned to be qualified to vote or make a proxy. Now it was pretended, that the castle of Edinburgh was a constabulatory, and was out of the Sheriff's jurisdiction; and that therefore he could not legally tender them the oaths. Some proxies were signed without subscribing witnesses, a form necessary by their law. Other exceptions were also taken from some rules of the law of Scotland, which had not been observed. The clerks being also complained of, they were sent for, and were ordered to bring up with them all instruments or documents relating to the election. When they came up, and every thing was laid before the House of Lords, the whole matter was long and well debated.—As to the duke of Queensberry's voting among the Scots Lords, it was said, that if a peer of Scotland, being made a peer of Great Britain, did still retain the interest in electing the sixteen from Scotland, this would create a great inequality among peers, some having a vote by representation, as well as in person: the precedent was mischievous, since, by creating some of the chief families in Scotland peers of Great Britain, they would be able to carry the whole election of the sixteen as they pleased. It was objected, that, by a clause in the act passed since the Union, the peers of England, who were likewise peers of Scotland, had a right to vote in the election of Scotland still reserved to them; so there seemed to be a parity in this case with that. But it was answered, That a peer of England, and a peer of Scotland, held their dignity under two different crowns, and by two different Great-seals: but, Great Britain including Scotland as well as England, the Scots peerage must now sink into that of Great Britain. Besides, that there were but five, who were peers of both kingdoms before the Union; and therefore, as it might be reasonable to make provision for them, so it was of no great consequence; but, if this precedent were allowed, it might go much farther, and have very ill consequences. Upon a division of the House, the matter was determined against the duke of Queensberry.—A great deal was said both at the bar by the lawyers, and in the debate in the House, upon the point of jurisdiction, and of the exemption of a constabulatory. It was said, that the Sheriff's court ought to be, as all courts were, open and free, and so could not be held within a castle or prison. But no express decision had ever been made in this matter. The prisoners had taken the oaths, which was the chief intent of the law, in the best manner they could; so that it seemed not reasonable to cut them off from the main privilege of peerage, which was reserved to them, because they could not go abroad to the Sheriff's court. After a long debate it was carried, that the oaths were duly tendered to them. Some other exceptions were proved and admitted; the returns of some, certifying that they had taken the oaths, were not sealed; and some had signed these without subscribing witnesses. Other exceptions were offered from provisions, which the law of Scotland had made, with relation to bonds and other deeds, which had not been observed in making of proxies. But the House of Lords did not think these were of that importance, as to vacate the proxies on that account. After a full hearing, and a debate, which lasted many days, there was but one of the peers, who were returned, that was found not duly elected, and only one of the petitioning Lords was brought into the House; the marquis of Annandale was received, and the marquis of Lothian was set aside.*

Major General Webb thanked by the Commons.] Dec. 13. The Commons resolved, *nem. con.* "That the Thanks of this House be given to major general Webb, for the great and eminent services performed by him at the battle of Wynnendale." And major general Webb being then in the House; Mr. Speaker gave him (in his place) the Thanks of the House accordingly, as followeth:

"Major general Webb; It is with pleasure, sir, I receive the commands of the House to return you their Thanks, for the great and eminent services performed by you at the battle of Wynnendale. We are all sensible, how much

* "The Scots members in both Houses were divided into factions. The duke of Queensberry had his party still depending upon him. He was in such credit with the lord-treasurer and the queen, that all the posts in Scotland were given to persons recommended by him. The chief ministers at court seemed to have laid it down for a maxim not to be departed from, to look carefully to elections in Scotland; that the members returned from thence might be in an intire dependence on them, and be either Whigs or Tories, as they should shift sides. The duke of Queensberry was made third Secretary of State: he had no foreign province assigned him, but Scotland was left to his management. The dukes of Hamilton, Montross, and Roxburgh had set themselves in an opposition to his power, and had carried many elections against him. The lord Sommers and the earl of Sunderland supported them, but could not prevail with the lord-treasurer to bring them into an equal share of the Administration. This had almost occasioned a breach; for the Whigs, though they went on in a conjunction with the lord-treasurer, yet continued still to be jealous of him." Tindal.

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the reducing the fortress of Lisle is owing to your courage and conduct. I wish a more early notice than the motion now made, had been given me, that I might have expressed myself more suitably to the occasion; though at the same time I am very sensible, I should then have wanted expressions. One of the greatest honours we are capable of conferring, is due to your merit; and as such, in obedience to command, I now give you the unanimous Thanks of the House, for your great services performed."

Upon which, major general Webb said,

"Mr. Speaker; I return my hearty thanks to this honourable House, for the great honour they have been pleased to do me. The success I had at Wynnendale, is owing to the great courage and resolution which the officers and soldiers shewed in that action. I have always endeavoured to deserve the good opinion of the House; and it is the greatest pleasure to me imaginable, that I have served my queen and my country to their satisfaction."*

Address of both Houses, on the Reduction of Ghent.] Dec. 23. Both Houses agreed upon the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons in parliament assembled, do most humbly congratulate your majesty upon the reduction of Ghent, the last great effort of this glorious year; a year that will be ever famous in history, as well for the entire disappointment of all the attempts and hopes of the enemies, as for the many wonderful successes with which God has blessed the arms of your majesty and the allies; the unusual length of the campaign, the variety of events, and the difficulty and importance of the actions, having given many opportunities to your majesty's general the duke of Marlborough, to shew his consummate ability, and all the great qualities necessary for so high a trust; whereby, in conjunction with the renowned prince Eugene of Savoy, such considerable progress has been made, and the conquests so far advanced, that we have reason to hope, the enemy, in spite of all their presumption, will soon find themselves under an absolute necessity of submitting to a safe and honourable peace."

The Queen's Answer.] The Lord Chancellor, and the Speaker of the House of Commons, attending her majesty with this Address, the Queen made Answer:

"I give you many thanks for this Address, and am extremely sensible of the loyalty and affection of both Houses of Parliament upon all occasions."

Debate in the Lords on the State of the Nation, in relation to the intended Invasion of Scotland.] January 12, 1709. The House of Peers having summoned their members to attend, took into consideration the State of the Nation in relation to the late intended Invasion of Scotland; and

The Lord *Haversham* opened the debate with the following Speech:

"My Lords; I have a greater respect for your lordships than to keep you in any expectation; there is nothing I can say, I am sure, can in the least deserve it.—My Lords; When the campaign was at at an end, when a land-tax lay on your table, when the due respect had been paid to that sorrow, in which we all bear a part, when the session of parliament was so greatly advanced, and a long recess so near at hand, I thought it might be a proper time to put your lordships in mind of the late intended Invasion; and the rather, because an enquiry into this seemed to me to be what the nation expected, and what I have observed, even those who have differed in their thoughts about it, yet unanimously desired; but above all, because it is a matter, in which not only our welfare and happiness, but our very being itself, the security of the nation, and safety of her majesty are so highly concerned.—I did endeavour to prove the first of these to your lordships, when I made you this motion, by reasons taken from the flourishing of your trade, the support of your credit, the nature of your victories, and the quieting of men's minds at home; and shall now, with your lordships leave, say a few words to the other part, and shew your lordships how much this enquiry concerns us all in point of safety.—Some perhaps may think, that after such wonderful successes abroad, as we have had the last year, after the French king has lost Lisle, and been forced to abandon Ghent and Bruges: to speak to your lordships of any dangers at home, or to have the least apprehension from such a baffled enemy, were to expose the weakness of a man's own judgment; but I shall endeavour to shew your lordships how dangerous a mistake this is, from example, reason, and authority, the three best arguments I know to prove any truth.—My lords; Were not Hochstet and Ramillies as glorious victories, and as great mortifications to the French king, as our taking of Lisle, or reducing of Ghent? and yet after such entire victories, such repeated defeats, had not this haughty neighbour of ours, the presumption, the last year, to attempt the setting a Pretender

* "This gave Mr. Bromley occasion to say, 'That he did not disapprove the custom, which 'of late years had been introduced, of returning 'thanks to such generals, as had performed 'eminent services; especially when they re- 'ceived those compliments as modestly as the 'worthy member, to whom they were now 'given, had done. But it was with grief, he 'observed, that a certain commander, on whom 'not only the thanks of the House, but also 'great rewards had been bestowed, appeared 'yet to be unsatisfied.' This reflection was visibly levelled at the duke of Marlborough, who, about that very time, was attacked in two pieces, which were printed and industriously spread about, the one intituled, 'A Speech of Caius Memmius, Tribune to the people of Rome, translated from Sallust;' the other intituled, 'An Account of a Dream at Harwich.'" Tindal.

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upon her majesty's throne? And can we reasonably promise ourselves any security whenever he is in a condition to give us the least disturbance? And is he not in a condition? Is he not as near us this year as he was the last, notwithstanding all our conquests? That is an advantage our allies only have by them, to have their enemies at a greater distance. Has he not as many ships, and as many friends too, except one, as I mentioned to your lordships? Nay, my lords, has he not as great encouragement to renew his attempt as he had to undertake it, as I shall presently shew your lordships; from whence then does our great security arise? Besides, my lords, what is yet further, every body is convinced by the inconsiderable force, the small number of ships and troops, the French king employed in the late attempt upon us the last year, that his chief dependence was upon the encouragement and promises of assistance he had from hence; and yet, notwithstanding all our enquiries, is it not as great a mystery to this day as it was, who the persons amongst us are, who were concerned in this black and unnatural treason?—It is true, my lords, several persons of great quality and interest have been taken up upon suspicion, brought from their own homes and country, whilst others thereby have had the opportunity of supplanting them in their interest there: It is not for me to say, whether this proceeded from ill-will to some, or favour to others; but, has any thing been proved against them? Does not the bail that has been given for them, and their sitting in this House, convince every body of their innocence? So that this way of proceeding has rather proved vexatious to the subject, than any real security to the government, and I hope will make us for the future set a greater value upon our Habeas Corpus Act, which was the right of every subject before by common-law.—Nor has the characters that have been made of persons to be suspected had any better effect. There are two I shall mention to your lordships, and I think greater mistakes than both of them can scarce be put into words; the first is, that men of arbitrary principles are the persons who ought to be suspected; this argument has been very much laboured, and great pains has been taken to persuade the world from men's practices in former reigns, that they are still of arbitrary principles, and from thence it is inferred they ought to be suspected. I shall not trouble your lordships, or myself, at present, to shew the weakness of this argument; I will take it as they that have use of it would have it, for a strong and undeniable consequence, and then I ask, what, my Lords, is the nation to suspect any, who are at the head of your ministry, of giving this encouragement to your enemies? For I will be bold to say in this place, if this be a good argument, it is as strong against some who are at the head of your ministry, as against any man I know of who is out of it.—There is another character of suspicious persons, which I cannot but take notice of, because I take it to be very fatal to the freedom of parliament, for it is impossible for any man to take notice, either in parliament, or to the queen herself, of any wrong measures, or false steps in the management of public affairs, without so far reflecting on the ministry; and if this is to be interpreted as an artful method of lessening her majesty's just esteem of her ministers; and those who do so are to be marked as dangerous to the safety of her majesty's person, and the present establishment, I am afraid her majesty, for the future, may have several things concealed from her, which might be for her service to know, and one of the great ends and uses of parliaments, the redressing of grievances, and keeping great men in awe, will be quickly laid aside. But, my lords, we have a very visible instance, that this is a great mistake; for do we not see those lords, who the last year espoused the case and complaint of the merchants in parliament, now advanced to the greatest places of trust and power? So that these two methods have rather shewed us, who ought not, than who are to be suspected.—My Lords; I shall now take leave to say one word to the positive part; and if we would apply an observation of the schools to the case in hand, I believe it would set this matter in the truest light. They tell us there is great difference to be made between a division and a distinction: Every division is a distinction, but every distinction is not a division; the soul and the body are distinct, but they are not divided, for that would be a state of death; it is so in this case, the Papist, Jacobite, and Nonjuror, are a party of men divided from the rest of the nation; they want that *forma informans*, as they call it, that vital spirit of love and loyalty that animates every good subject: But as for others, however they may be distinguished, and differ among themselves in their notions relating either to ecclesiastical or civil policy, yet they seem all to have the same regard and concern for the honour and safety of her majesty and government. I would not be misunderstood, as if I did not think some of all persuasions may be faulty: I know, that even among the Apostles themselves, he that bore the bag proved the traitor:* My meaning

* "The House of Peers having ordered their members to attend on the 12th of January, they took into consideration the State of the Nation, in relation to the late intended Invasion of Scotland; and the lord Haversham opened the debate with his *annual* speech, which seemed to be prepared for that occasion, and was not without some strokes in it, levelled against the ministry, which were the strokes that gained attention from some, who were by no means admirers of his lordship's principles or faculties; As this, 'He among the Apostles, 'who bore the bag, proved the traitor:' Though there was no more likeness in the allusion, than would be between Judas and Scanderbeg, yet every one knew whom it was levelled at; and because bags hold treasure sometimes, therefore the Treasurer is a traitor: Such

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only is, that those who have taken the Test to the government, may at least pretend to an equal degree of your charity with those who never yet owned it; and it is these persons who never swore to the government, that her majesty directly points at in her last speech to her last parliament; for after she had been pleased to say, "It is certain we must be all inexcusable, if we do not take warning from this attempt, to complete what may be necessary for our security at home, and the discouraging the like for the future; to which, by God's blessing, there shall be nothing wanting on my part." In the following paragraph she is pleased to add, "I must recommend to you, at your return into your several counties, to use your utmost care and diligence in putting the laws in execution against papists, and all others disaffected to my government, and in making them pay towards the public taxes to the full of what the law requires from them: Nothing being more reasonable than that they, who by their principles and practices encourage (if not actually foment) such disturbances, should doubly contribute to the charge of quieting them, and securing the kingdom's peace, and should know themselves, on all such occasions, to be responsible for the many inconveniences that may ensue:" Which two paragraphs, will, I hope, justify what I have taken notice of to your lordships.—My lords; I do not forget the obligation I am under to a noble lord, and therefore shall now shew your lordships, that notwithstanding the French king failed in his late attempt upon us, yet he has more encouragement to renew it, than he had at first to undertake it: And, my lords, I think a great deal that I have said to your lordships proves it. Is it not a great encouragement to him, to see, notwithstanding so many friends that he has amongst us, all the methods that we have hitherto taken, have signified so little to discover any of them? And that those methods have not been taken, that might perhaps have signified more towards a discovery, and have been made use of at other times; I mean promises both of pardon and reward. Does he not see how easily he can shake the main pillar that supports all our commerce, I mean the Bank? Was it not in danger of breaking? And has it recovered the blow to this day that he gave it? For, my lords, if men cannot be masters of their own money, which they trust with any body, upon no other reason, but that they may command it again in any case of necessity, without being looked upon as suspected persons, I believe men will be so wise as to secure both their money and themselves too, from any such danger. There is another encouragement, which he has, my lords, and that is, the weak and defenceless condition of Scotland, the deficiency of force, and ill state of your garrisons there, at the time of the Invasion, notwithstanding the certain accounts and knowledge we had of it. What, my lords, will no alarm awaken us? Will the scales never fall off from our eyes? Must some men's mighty services prevent our looking into others great miscarriages? And must this poor nation be eternally sawn asunder by the struggles of contending parties? My lords, I hope it is not thought that I have been thus urgent with your lordships from any fears of personal danger: I am content to take my lot with others as it falls, whatever it be; but I am afraid lest her majesty should be dethroned whilst she lives, and that the destruction of popery or slavery, whilst we are speaking peace to ourselves, should suddenly, like a flood, break in upon us.—My Lords; If your lordships have any intention of looking into this matter, I shall make your lordships a motion, which perhaps may give us some light; it is indeed a complex one, and rather a schedule of papers; it is, That her majesty will please to order, that there may be laid before this House, at what time her majesty received the first account of the intended invasion: What orders were thereupon issued into Scotland, with relation either to forces or garrisons? What was the number of regular troops and forces there, at the time of this intelligence? What was the state of the garrisons there at that time? What augmentation was made, or forces sent thither, from the time of the intelligence, to the time of the Invasion? What orders have been given with relation to the garrisons, and when, both before and since the Invasion, from the time of the first intelligence?"

Several other peers spoke to the same purpose; whereupon the House appointed a Committee, to enquire into the State of the Nation, in relation to the intended Invasion; and ordered an Address to be presented to her majesty, to desire that the Papers, concerning this affair, might be laid before them: Which her majesty was pleased to direct accordingly.

Lord Haversham opens the Account of the Scots Invasion.] On the 25th of February, the Lord Haversham opened, in the House of Lords, the account of the Scots Invasion, in the following Speech:

"My Lords; The temper of this House, with relation to your enquiry into the intended Invasion, since your Address to her majesty to

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wretched quibbles as this, are often the best arguments to support a bad cause: What follows was aimed at the earl of Wharton; 'Do 'we not see those Lords, who the last year 'espoused the case and complaint of the Mer-'chants in parliament, now advanced to the 'greatest places of trust and power.' Having intimated several particulars of encouragement to the late intended Invasion, he strings a set of Interrogatories, exactly like the heads of the late opposition to the present government, 'What, my Lords, will no alarm awaken us? 'Will the scales never fall off from our eyes? 'Must some men's mighty services prevent our 'looking into other's great miscarriages? And 'must this poor nation be eternally sawn 'asunder by the struggles of contending par-'ties? &c.'" Oldmixon.

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have the Papers laid before you, and since they have been upon your table, is so very visible, I need not take notice of it, but ought rather to ask forgiveness for myself, that I should dare so much as mention that matter once more to your lordships; nor should I do it, were it not from an absolute necessity and justice, which I think is due to myself, and those lords who did me the honour to second the motion I made for addressing her majesty for those Papers; for to me it seems too much like fear or guilt, to sit down tamely under any reflections a man has in his power to wipe off, and there are some which we, perhaps, hereafter may be reproached with: One is, that these lords who made you this motion, never so much as looked into the Papers they called for, or have thought on, or mentioned that matter since; perhaps they will say so too, that they never intended it should come to any thing; that it was only a cover to some design they had under it; nay, I do not know but they may go so far as to say, that, under-hand, they were trying how an act of grace would relish: Should such a thing be offered, I know myself so innocent, as, in our present circumstances, I should not give my consent to it, for I shall always think, that, when horses are skittish, vicious, and headstrong, let who will be upon their back, it is fit they should never be without a good strong curb in their mouths: And, as to these Papers, my lords, I have looked into them, and those who have done so, cannot, in my opinion, but think of them: But that your lordships may not have my word for this, I will, with your lordship's leave, take notice of some particulars that are in them; and that you may be certain of the truth of what I observe, I beg your clerk may read, for vouchers, the Papers themselves, as they shall be called for.—It will not, I presume, be denied me, that, upon the 23rd of February, Mr. Boyle received certain intelligence, that the intended armament at Dunkirk was designed for Scotland; there had been several advices before of great preparations making, and, by the great quantity of fire-arms, it was judged to be for some land design. The States were apprehensive, and acquainted her majesty, by their minister, with it; and Scotland had been, in several intelligences, named, but I do not find there was a certain account till that of the 23d of February, to Mr. Boyle.—The queen, in her letter of the 25th of February, to the council of Scotland, thinks it necessary to acquaint them with it; and, that she does expect they should do their utmost for the protection of her subjects, and preservation of the public peace; that nothing on her part should be wanting; that she had given orders, that some of her troops in Flanders should be ready to embark, in case the embarkation at Dunkirk should go on; and that her troops in England and Ireland were so disposed as to give what assistance might be necessary, and, in the mean time, authorizes and empower them, the privy council, to give such orders as were proper to put her forces, forts and garrisons there, in the best order.—This then being allowed, the first question is, What number of forces, effective, regular troops, I mean, were in Scotland at this time, that is, the 23d or 25th of February, 1708? I cannot but observe to your lordships, that there has been a great deal of care taken to conceal this from us, although this very account was particularly asked for by your Address; yet, in all that great bundle, there is not one Paper from whence we can learn the number: I was therefore forced to get the best light and intelligence I could elsewhere; and have very good authority for what I am going to say, and do affirm to your lordships, that the regular forces in Scotland, upon the 25th of February, 1708, were not above 1,500 men. If I am mistaken, I hope some lord here will set me right, and take upon him to say what the real number was at that time.—And, since there were but 1,500 men, it is certain that was not a number or strength, that could be thought by any man sufficient to secure and protect the kingdom against the Invasion that threatened it; and the ferment that was then in the nation was such, that I do not find they durst so much as trust their militia with their own defence. We are therefore, in the next place, to consider what additional strength or augmentation this handful of men had, or what assistance, either from the forces from Ostend, or those from Ireland, or English troops from hence.—As to augmentations or additions, I find there was little or nothing done as to that part: The parliament indeed had, on the 20th of Dec. 1707, raised the establishment of the forces in Scotland from 2,834 to 5,932; but, it appears by a letter from the earl of Leven to the earl of Marr, of the 7th of March, that little notice had as yet been taken of what the parliament had done; for, in that letter to the earl of Marr, he intreats him again to mind the establishment, and let him know if he shall give encouragement to any who should be willing to take arms to join them; and says, further, he hopes, at least, that so much of the levy-money as is due since the 24th of December, will be given now; for that would buy some horses, and levy some men: So that by this letter it appears there was no money given to levy men, or increase the forces in Scotland, though there were 3,600 men wanting at that time, and had been so ever since the parliament had voted the establishment in December, and, though our danger, at that time, from the want of them was so very great and evident; which seems very astonishing. Nor does it appear that any directions, or money for this or any other service, till the Invasion was over, was ordered here till the 12th of March; and then, indeed, on the 13th, the earl of Marr writes from hence to the earl of Leven, That my Lord Treasurer had ordered the people of the customs and excise, to answer the earl of Leven with money for provisions, and other necessary charges; and further says, That my lord Marlborough told him that very

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morning, which was the 13th, that the Scots establishments would be ended that day; he knows not how they have made it, or if they have altered any thing that we had concerted with St. John, or if any thing be omitted; but we hope they have not.—It is very true, her majesty, in her second letter of the 8th of March to the council of Scotland, recommends to them, to give present directions to put her forts, garrisons, and magazines there, in a good posture of defence, and says, That what shall be expended towards those ends by their warrants shall be repaid, for which she has already given orders: What those orders were, or to whom given, are not to be found among the papers; but it is very evident, that there was no order for one farthing of money, to answer either the orders of the council, or the earl of Leven's necessary charges, out of any branch of the revenue, or otherwise; for in a letter of the earl of Leven to the earl of Marr, of the 13th of March, he has these words, which will likewise shew the condition of the nation at that time: "My lord, says he, I leave it to your lordship to consider my circumstances, here I am, not one farthing of money to provide provision, or for contingencies, or intelligence, none of the commissions yet sent down, few troops, and those almost naked; it vexes me sadly to think I must retire towards Berwick, if the French land on this side the Forth." And that you may not have his lordship's single word for it, the Lord Advocate confirms very much the truth of this, in his letter of the 11th of March to the earl of Marr; for after he had said that, he was ordered to lay before her majesty the inclosed information for the castle of Edinburgh, and a particular account of what it wants to put it in a case of defence: and also the castles of Sterling, Dumbarton, and Blackness, to shew their present condition, and want they are in, and that he had formerly sent a memorial of Mr. Slezer's for a train of artillery; all which he hopes will be considered: He adds, I believe (says he) there was never a country more destitute and defenceless than we are, nor have we so much as a Treasury, or any money for incident charges; so that I must again, by the council's order, lay these things before your lordships, and that at least some order may be given, whereby necessary expences may be defrayed. And the earl of Marr's letter of the 13th from hence, is the first account we have of any money that was ordered for Scotland: By all which it plainly appears, that, notwithstanding the orders the queen mentions in her letter of the 8th of March, the council had not a shilling for necessary expences on the 11th, nay, not so much as one penny ordered till the 13th; and as to the establishment, notwithstanding all the pressing instances, that was not settled till after the invasion, as appears by the earl of Marr's letters of the 12th and 13th of March.—This, my lord, is the true state, as appears from the papers themselves given in, relating to the force of that, I had almost said deserted, but I may say defenceless nation; few men, and those almost naked, 3,600 men wanting of the establishment voted by the parliament for the year 1707-8, near three months before: no levy-money, no establishment settled, no commissions sent down, not a shilling ordered by the ministry out of any branch of the revenue, or otherwise, to the privy council or earl of Leven for necessary expences, or to buy provision, or for contingencies or intelligence, and all this in a time of the utmost danger.—In the next place I shall shew your lordships, when Scotland was in this defenceless condition, what assistance they had from Ostend, England and Ireland. As to the transports that were to come from Ostend, though all the dispatch was made that could be made, they did not arrive at Tinmouth Bar, till ten days after the enemy were seen upon the Scotch coast, so that the dispute, if there had been any, would have been over, and the enemy in all human probability, would have been masters both of Edinburgh, the castle, and all that was in it, before they could come up to their assistance. And the very order to (rear admiral) Baker is so extraordinary, a man cannot but take notice of it, for after that he is required and directed to make the best of his way to Tinmouth bar, with her majesty's ships under his command, and the transport ships with troops which he brought with him from Ostend, &c. there is a further order in these words, 'but in regard there are several dismounted troopers on board the transports, you are to send a vessel with them to Harwich, if you can conveniently, their horses being now in Essex;' so that instead of taking the horses to Tynmouth, the dismounted troopers are first to be sent to Harwich to their horses, and from thence to proceed to Scotland, which, one would think, were a very round about way.—And as to our troops from hence which were to assist them, the several regiments of horse, dragoons and foot, had not their orders to hold themselves in readiness to march till the 11th of March. The next day orders were given for them to augment, and on the 14th they were ordered to march northward, which was certainly too long a delay, considering what a march it is from hence to Edinburgh; yet this was all the readiness they were in to assist them.

"But there is one thing which is most amazing, and I must again desire, if I am wrong in fact, that some lord here, who I am sure can, will set me right. The queen, as I shewed to your lordships in her letter of the 8th of March, which your clerk just now read, told the council of Scotland, our troops from Ireland, which we mentioned in our last, are ready to embark in transport-ships provided in those places with all necessaries for that service: And yet it does appear plainly, that there were no transports provided at that time here; nor were any transport-ships ordered in Ireland; nay, the very orders to provide transports were not given by my lord Sunderland till the 12th of March here; nor by my Lord Lieutenant of

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Ireland, for the troops to be in a readiness to be transported till the 13th, and then my lord Sunderland sends an order to the Commissioners of Transports, telling them, That it is her majesty's pleasure that they forthwith take up shipping for the transportation of 600 horse, that are to embark at the White House between Carrickfergus and Belfast: And it is left, says he, to your discretion to hire these ships either at Whitehaven, Liverpool or Chester, as you can do it with most expedition and conveniency. And upon the 13th his lordship sends another letter, acquainting them, that they are to provide aboard those ships, hay and oats sufficient to serve 600 horse for a fortnight, and as many water casks as may be necessary to carry water; particulars that were it seems forgot in the first orders: And in an extract of the earl of Pembroke's letter to the Lords Justices of Ireland, of the 13th, he tells them, 'I did not in the least doubt but that your lordships will issue proper orders for one regiment of horse, and two of dragoons, to embark whenever there shall be occasion for them: And it is her majesty's opinion, that the regiment under the command of lieutenant-general Langston, major-general Echlyn, and lord Tunbridge, should be on this service; and I am of opinion that it will be for the service of the queen, to have these three regiments move with all convenient speed, and take their quarters in and about Belfast and Carrickfergus, that they may be in a readiness to embark; I desire your lordships to give directions to the proper officers to provide and get ready hay, oats and water, for at least a fortnight.' And here, if we consider that these letters were dated March 12 and 13, from hence, that they were to go to the Commissioners of Transports here, and to the Lords Justices in Ireland, that after these transports were to be agreed for, and hay, oats and water to be provided, and the three regiments ordered to march, what time this would take up, it seems very evident, that her majesty was not truly acquainted with the danger she was in; that she thought these things were in a readiness which were not; and that the orders she had given had not been observed, as she concluded they were; and, in the last place, that these three regiments must arrive in Scotland very late.

"But there is one thing more so very new, and without precedent, that it cannot but be very astonishing; which is that in the earl of Leven's Instructions of the 4th of March, in that part where he is ordered to Ireland for assistance, there is a blank left as to the person to whom he is to write; the words are these: 'You are, upon the first appearance of any 'squadron of French ships upon the coast, to 'send to Ireland to to adver-'tise him thereof, who has orders to send 'troops to your assistance;' and yet, as was just now proved, both from my lord Sunderland's letter to the Commissioners of Transports, and from my Lord Lieutenant's to the Lords Justices, there were not so much as orders given for any transports here till the 12th, nor any ever in Ireland, nor were the three regiments directed to move, in order to embarking, till the 13th. I confess, when I read this, I thought it was a mistake of the transcriber, till I saw these words in the earl of Leven's own letter, of the 7th of March, to the earl of Marr. 'I desire you,' says the earl of Leven, 'to send down the name of the person I am to write to in Ireland, if there be occasion; and must still entreat your lordship that orders be sent for some horse and dragoons to embark.' And again in his letter of the 13th, where he has these words to the earl of Marr, he repeats the same thing; 'Pray endeavour to get orders sent straight to Ireland for the officers there to embark, for you know I have no person's name to whom I should write.' This convinces me beyond what any man can say, that his lordship did not know to whom to write, for sure his lordship would not repeatedly affirm what was not fact; and whoever considers that there were no orders lodged any where for any person from Ireland, upon advice from the earl of Leven of the appearance of the enemy, to follow his direction, and hasten to his assistance; nor any orders at all for transports there; nor any direction here for transports till the 12th, must, I think, be convinced that this blank in the instructions did not happen by chance, but was a premeditated and designed omission.—I would not forget any care that was taken, and therefore must take notice, that on the 27th of February there were an hundred barrels of powder ordered to be sent from Berwick to Edinburgh: but the earl of Leven was not writ to about it till the 2nd of March, which was four days delay. And the order itself was so very preposterous, I had almost said ridiculous, (much like that of Baker's) that it had full as well been omitted; for, instead of ordering the store keeper of Berwick immediately to carry a hundred barrels of powder to Edinburgh, they send an order to one Mr. James Robb, deputy store keeper of Edinburgh, to get carts and go with them to Berwick, and take 300 barrels of powder and bring it to Edinburgh. And Mr. Grieue, store keeper of Berwick to the board of the ordnance, writes a letter, dated March the 10th, 1707-8, hither, that Robb was come to Berwick, and the carts would be there that night. And I appeal to a lord, who cannot but know whether the powder came to Edinburgh before the danger was past, and the French off our coast? And whoever will reflect, that the earl of Leven's letter, dated here the 2nd of March, was to go to Edinburgh; that then at Edinburgh carriages are to be taken up for the powder, then they are to go to Berwick, and from Berwick they are to return again to Edinburgh, will find it could hardly be there sooner.

"The next thing I shall take notice of to your lordships, is the State of the Garrisons. The parliament had given, the 20th of Dec. the sum of 13,098*l.* 17*s.* 2*d.* for the Garrisons of North Britain for the year 1708. But I

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cannot but think your lordships will be greatly surprized, when you find in what a wretched condition they were. I will give your lordships but an instance or two, the rest are much in the same state:

"*Sterling-Castle.*—This is a very considerable post, a place of great importance; and yet what an account is there of the arms and ammunition in that place? One barrel of powder. 550 firelocks, of which, about 100 for service, and some of that 100 want ramrods, and some nails, all the rest unserviceable. 780 muskets, which may be for service, when furnished with ram-rods; some nails, and some shattered in the stocks. 380 muskets, with broken stocks and locks, and many wanting locks, and all unserviceable. 150 bundles of match, all damnified with lying in rain. 300 bayonets, with most of them broken and spoiled, altogether unserviceable. 300 cartridge boxes, all broken and unserviceable. 200 pikes, damnified by long lying. 40 cannon-balls, 18 pounders. 70 cannon-balls, 12 pounders. 1,200 balls, 9 pounders. 3,400 four pounders. 20 small bomb-shells without mortars. 1,200 hand grenado shells. 50 stands back and breast:

"*Ordnance Stores in Blackness Castle.*—Two barrels of corn-powder, 100 each: 100 yards of match. 4 hand-spikes. 59 musket barrels, repairable. 7 scimitar blades, useless. 1,000 pound musket bullets. 3 ladles, one serviceable, the others useless. 2 cannon, 3 pounders. 1 train carriage, unserviceable. 2 minions. 3 faulcons on ship-carriages, unserviceable. 77 balls for minion. 25 balls for 3 pounders. 149 hand grenado shells.

"*Dumbarton Castle.*—There are several breaches in the wall: there are 12 brass-guns, none of them mounted, all of them want carriages: there is no powder in the garrison, and but few flints; all the lodgings in a ruinous condition; no coals in the garrison, nor any other provision; the firelocks, being long since they were gotten, are very ill fixed. Edinburgh, March 9, 1707-8. The abovementioned is the true condition of the castle of Dumbarton at present.

"I need not, my lords, I think, make any observations upon the Castles, after your lordships have seen the wretched state of them: and therefore, in the last place, shall only take notice to your lordship, that, after the Invasion was over, there were estimates made, what it would cost to put the fortifications of Scotland in good repair. The total, as appears by your Schedule, amounts to 23,156*l.* of which there could be but 3,000*l.* laid out this year; and yet there has been but poor 1,500*l.* expended upon that service this year, as appears by your paper.

"I will not trouble you farther, I think this matter is now very plain before your lordships; I could wish I had not said one word of truth in what I have said to you; but the vouchers shew it to be so, and if all this be true, it is a very strange, a very surprising, and a very astonishing truth.—I shall not move any thing to your lordships farther in this matter, I believe there has been enough now said, to justify those Lords for moving this enquiry, and shall add but this word, that if there be no greater care taken for the future, than there was at this time of such imminent danger, it will be the greatest miracle in the world, if, without a miracle, the Pretender be not placed upon that throne."

This is the substance of what was observed by the lord Haversham, though there happened some interlocutories between him and another Lord: and the observations were made upon the Papers as they were read. The duke of Buckingham and several others spoke to the same effect: upon which it was ordered, that that important affair should be considered the Tuesday following in a full House. But all ended in a joint Address of both Houses, as will presently be seen.

The Commons' Proceedings concerning the Invasion.] During these debates in the House of Lords, the Commons had also taken the affair of the Invasion into consideration. Pursuant to an Address they had presented to the queen, Mr. Boyle laid before the House a state of the whole matter of the designed Invasion of North Britain; the proceedings against the late lord Griffin, and others taken in open rebellion, and also an account of the names of all those that were taken up, and the proceedings against them; and, in what posture of defence the castles and garrisons of North Britain were at that time, and now are. Not long after the Commons resolved to present another Address to the queen, "That there might be laid before them a list of the ships of war employed on account of the late Invasion, under vice admiral Byng and rear-admiral Baker, and of the names of the captains, who were employed in that expedition, and what journals had been delivered in, relating to the same:" But, after all these Addresses, when the papers, relating to this affair, came to be considered, the House at length resolved, 'First, That orders were not issued for the marching of the troops in England until the 14th day of March, it being necessary for the security of her majesty's person and government, that the troops in this part of the kingdom should not march into Scotland, till there was certain intelligence that the enemy intended to land in that part of the United Kingdom. Secondly, That timely and effectual care was taken by those employed under her majesty, at the time of the intended Invasion of Scotland, to disappoint the designs of her majesty's enemies both at home and abroad, by fitting out a sufficient number of men of war, ordering a competent number of troops from Flanders, giving directions for the forces in Ireland to be ready for the assistance of the nation, and by making the necessary

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and proper dispositions of the forces in England."*

The Commons vote their Thanks to the Duke of Marlborough, though absent.] Jan. 22. The Commons unanimously resolved, "That the Commons of Great Britain being truly sensible, not only of the great and eminent services performed by his grace the duke of Marlborough, the last successful campaign, so much to the honour of Great Britain, and advantage of all Europe; but also the indefatigable zeal he persevered in, for the service of the common cause abroad, while he might, with reason, expect to be received with all the marks of honour and satisfaction at home, do with a just regard to his glorious actions, return him the thanks of the House;" And ordered their Speaker to transmit the same to his grace.

The Duke's Answer.] Which being done accordingly, the duke of Marlborough was pleased to return the following answer:

"Sir; Brussels, Feb. 13, 1709.

"I am extremely sensible of the great honour which the House of Commons have done me, in the Vote you have been pleased to transmit me by their order; Nothing can give me more satisfaction, than to find the services, I endeavoured to do the queen and my country, so acceptable to the House of Commons: And I beg the favour of you to assure them, I shall

* However, the author of a piece, supposed to be written by the lord Haversham himself, and published in 1709, in 4to, under the title of 'An Account of the late Invasion, as it was 'opened by lord Haversham, in the House of 'Lords, on Friday the 25th of February, '1708-9: with some Observations that were 'made in the House of Commons, and true 'copies of authentic Papers, in a Letter from 'a gentleman in South Britain, to his friend in 'North Britain,' observes, p. 20, &c. "That the same papers being laid before the House of Commons, pursuant to their Address, produced the like observations there, and that the Scots gentlemen concurred with the English, in blaming the conduct of the ministry; affirming it was such as gave great encouragement to the enemies of the government; while its friends look on their country to be perfectly given up. This, they said, was their general sense. In the House of Commons, some observations were also made upon the imprisoning many persons in Scotland at that time; several lords and gentlemen of the best quality and estates were apprehended and seized, by virtue of warrants sent from hence for suspicion of treason and treasonable practices; though it does not appear from the papers, that there was any cause to suspect; nor that any of their countrymen (who were the properest persons to be advised with on this occasion) were consulted in it. For the earl of Mar, in his letter to the earl of Leven, March 9, writes, That he, with the dukes of Queensberry and Montross, the earls of Loudon and Seafield, were summoned to the cabinet, and were told there, that since both Houses had, for securing suspected persons, suspended the Habeas Corpus act, it was fit persons in Scotland should be apprehended; and a list was read to them, which they took down in writing, and warrants were ready drawn. This was certainly a very extraordinary way of proceeding, and the more extraordinary, because the greatest part of the lords and gentlemen, taken up by these warrants, had given undoubted testimonies ever since the Revolution (in which some of them had been very active and instrumental) of their fidelity and good affection to the government; they had taken all oaths that have been enjoined for their security; they had sat in parliament; and some of them had been in offices and employments of great trust in the reign of king William and of her majesty. Others, under the like circumstances, were taken up by warrants, bearing date the 29th of March, when the danger was over; which made the Scots gentlemen very free in declaring, that the taking them up could be for no other reason, than to influence the approaching elections to parliament; and for their disaffection to the interests some courtiers then promoted, rather than for their disaffection to her majesty's person and government, in which they were the more confirmed, because they saw there was no evidence in the papers against any of them. There was indeed some evidence of high treason pretended against five gentlemen, taken up by warrants from the privy council of Scotland; but that was such, as the lord advocate writes, neither he, nor the other advocates employed for her majesty, did think would convict them; and therefore, humbly offered it as their opinion, that it would be more for the honor and service of her majesty, and of her government, that they should not be prosecuted. The earl of Sunderland, in his answer, acquainted him, he had laid his memorial before her majesty, who was well satisfied with what he had done, in procuring evidence against the prisoners; and though possibly, upon their trial, the evidence might not be sufficient to convict them by the law of Scotland, yet, considering all the circumstances of that affair, and the noise it has made in the world, her majesty thought it absolutely necessary for her service, that it be carried as far as it will bear. Accordingly, they were brought upon their trials, and acquitted. After all the observations made upon the papers, the consideration of them ended in the House of Commons, in the Resolution above mentioned. The gentlemen that were against this Resolution, desired that all the papers laid before the House, relating to the intended Invasion of Scotland, might be printed, that the world might see and judge, how well-grounded it was. But those, who had justified the ministry in their debates, and voted for the Resolution, would not suffer the papers to be printed, so that the question was carried in the negative."

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never think any pains or perseverance too great, if I may (by God's blessing) be instrumental in procuring a safe and honourable peace for her majesty, and my fellow-subjects. I am with truth, Sir, Your, &c.

"MARLBOROUGH."

Address of both Houses, desiring her Majesty would not decline the Thoughts of a Second Marriage.] An Order having been made by her majesty's privy council, in pursuance of her majesty's pleasure to them signified, "That in the Form of Prayer with Thanksgiving to Almighty God, to be used in all churches and chapels within this realm, every year upon the 8th day of March, (being the day on which her majesty began her happy reign) in the Prayer at the Communion-service, immediately before the reading of the Epistle for the Queen, as supreme governor of this church, these words following be left out, 'And that 'these blessings may continue to after-ages, 'make the queen, we pray thee, an happy mo-'ther of children, who, being educated in thy 'true faith and fear, may happily succeed her 'in the government of these kingdoms;' And that no edition of the book of Common-Prayer, with the above mentioned Form of Prayer and Thanksgiving, be printed but with this amendment."

Mr. Watson, son to the lord Rockingham, moved, "That an humble Address be presented to her majesty, that she would not suffer her just grief so far to prevail, but would have such indulgence to the hearty desires of her subjects, as to entertain Thoughts of a Second Marriage." This motion being seconded by several other members, was unanimously carried, and a committee appointed to draw up the said Address: which being agreed to by the House, and the Lords having given their concurrence to the same, was on the 28th of January presented to her majesty, by the Lord Chancellor, on the part of the House of Peers, and by the Speaker of the Commons, on the part of their House, being as follows:

"Most gracious Sovereign;

"We your majesty's most loyal and dutiful subjects, the Lords spiritual and temporal, and Commons in parliament assembled, being truly and deeply sensible of the many and great blessings we have enjoyed during the whole course of your majesty's most glorious reign, do most humbly conceive we should be inexcusably wanting to ourselves and the whole kingdom, if we should neglect to use our most zealous endeavours, that those blessings may be derived down to future ages: and therefore, with hearts full of the most profound respect and duty to your royal person, we most humbly beseech your majesty graciously to consider the universal desires and most humble supplications of your faithful subjects, that your majesty would not so far indulge your just grief, as to decline the Thoughts of a second Marriage.—This would be an unspeakable joy to your people, who would join their most fervent prayers to Almighty God to bless your majesty with royal issue; All of them concurring in this opinion, That no greater happiness can be desired for your kingdoms, than that they and their children may long continue under the gentle and gracious government of your majesty and your posterity.

The Queen's Answer.] Her majesty's Answer to this Address was,

"The frequent marks of duty and affection to my person and government, which I receive from both Houses of Parliament, must needs be very acceptable to me. The provision I have made for the Protestant Succession, will always be a proof, how much I have at my heart the future happiness of the kingdom. The subject of this Address is of such a nature, that I am persuaded you do not expect a particular Answer."

Mr. Speaker having reported this Answer to the House of Commons, they resolved to present another Address to return her their Thanks for the same.

Sir Simon Harcourt's Speech on the Abington Election.] Sir Simon Harcourt having been returned for Abington, and John Hucks, esq. having lodged a Petition against him towards the latter end of this month, the merits of the cause were argued, counsel heard on both sides; and the debates continued till two in the morning, when Mr. Hucks carried it by a considerable majority, sir Simon having first taken leave of the House with the following Speech:

"Whatever the determination of this House may be, this I am sure of, and it must be admitted, that I am duly elected for the borough of Abington, as ever any man was.—Had it been the pleasure of this House to have construed the charter, under which this election is made, according to the natural and plain words of it, as the inhabitants have always understood it; in such a sense all former parliaments have frequently expounded it: had you declared the right of Election to be in those persons, who have, without any interruption, exercised it for 150 years, you could not have heard it insisted, that I had not the majority. Even as you have determined the right, my majority is still unquestionable. No gentleman, with reason, can disprove my assertion, whatever reason he may have to refuse me his vote.—You have been truly informed, the petitioner, on closing the poll, declared he did not come thither with any prospect or hopes of success.—So stupid then was I, as not to comprehend the meaning of those words, 'I would do him justice;' I really believe he himself was not at that time let into the secret. Any opposition may give a handle to a petition, no matter for the justice of it, power will maintain it. Whoever sent him on such an errand; what mean and contemptible notions must he entertain of the then ensuing parliament? he must suppose them capable of the basest action, of being awed and influenced by menaces or promises, and to prostitute their consciences at the word of command. Had

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there been such a parliament elected, and I declared not duly elected, I should then have left my place with a compassion for the unfortunate friends that staid behind me; whoever could have framed such a project to himself must undoubtedly have wished for, perhaps have wanted such a parliament. He must have been a person, the most abandoned wretch in the world, who had long quitted all notions of right and wrong, all sense of truth and justice, of honour and conscience. Whatever his dark purposes were, it is our happiness and the nation's, that they were entirely disappointed in the choice of this parliament. I cannot directly point him out, but whoever he was, I have so much charity, as sincerely to wish he may feel, and be truly sensible of the honour and impartial justice of a British parliament." [Here he summed up the Poll on both sides, and demonstrated, That the counsel for the Petition had left him the majority of two votes, and had added several unquestionable votes to his own Poll] "The Petition charges me personally with many indirect practices; but no attempt has been made to prove any thing of that kind. As for the indirect practices charged on my agents, I had no agents; I knew of no opposition till the morning of the election, nor had the least apprehension of any. I thought no agent necessary to promote my interest, nor had I employed any person whatsoever to solicit for me: but what solicitations, what menaces and promises, have been used against me, and by whom, are but too well known to too many."

Resolutions of Supply.] Feb. 4. The Commons in a grand Committee went upon the further consideration of the Supply, and resolved; 1. "That 549,235*l.* 12*s.* 8*d.* ½, be granted to her majesty, to defray the charge of maintaining guards and garrisons in Great Britain, and for payment of invalids for the service of the year 1709, including 5,000 men to serve on board the fleet. 2. That 180,000*l.* be granted for the charge of the office of her majesty's ordnance, for 1709. 3. That 49,310*l.* 4*s.* 10½*d.* be granted for the payment of one year's interest of the unsatisfied debentures charged upon the Irish forfeitures. 4. That 3,500*l.* be granted for the charge of circulating the old Exchequer Bills for another year. 5. That a Supply be granted to her majesty for carrying on the coinage of the gold and silver of this kingdom." These Resolutions being on the 5th reported, were agreed to by the House, and a bill ordered to be brought in, for continuing the former acts for the encouragement of the coinage.

A Committee appointed to consider of Methods to put the Laws in force against Pensioners and Place-men sitting in the House.] The same day, the Commons unanimously resolved, "That a Committee should be appointed to consider of methods for the effectual execution of the several laws now in force, for excluding from the House of Commons, officers and such as receive pensions during pleasure, and to report their opinion therein to the House;" which committee was appointed accordingly.

Mr. Wortley Montagu's Bill for Naturalizing Foreign Protestants.] Mr. Wortley Montagu made a motion for the bringing in A Bill for the naturalizing foreign Protestants, and, in a set speech, shewed the advantages that would accrue to the nation, by such an act; alledging among other particulars, "The example of the king of Prussia, who had not only invited, but furnished abundance of French refugees, with means to settle in his dominions; where he had fertilized an almost barren country, improved trade and vastly increased his revenue: adding, that if foreigners were induced to settle under a despotic government, where they found protection and encouragement, they would undoubtedly be the more inclined to bring their effects, at least their industry, into Great Britain, where they would share the privileges of a free nation."

Mr. Compton and several other members backed Mr. Wortley's motion; and Mr. Campion saying only, "That if such a Bill were brought in, there should be a clause inserted in it for obliging such foreigners, as should be willing to enjoy the benefit of it, to receive the sacrament according to the usage of the church of England;" the House ordered the said Bill to be brought in.

Whilst this Bill was depending, a paper was printed, and industriously dispersed, importing, 1. That the conflux of aliens, as would probably be the effect of such a law, might prove dangerous to our constitution; for these would owe allegiance to their respective princes, and retain a fondness for their native countries; and therefore, whensoever a war should break out, might prove so many spies and enemies. And, besides this pretence, the professed enemies of our established church and religion might flock over, with design to effect its overthrow. 2. That a general naturalization might undoubtedly spread an universal disgust and jealousy throughout the nation; there having been many complaints and commotions in London, and elsewhere, on occasion of foreigners. 3. That the design of inviting multitudes of aliens to settle here, might prove in time a further mischief; for they would not only be capable of voting at elections, but also of being chosen members of parliament; have admission into places of trust and authority, which, in process of time, might endanger our ancient polity and government, and, by frequent intermarriages, go a great way to blot out and extinguish the English race. 4. That anciently naturalizations by act of parliament were seldom or never made, but upon special reasons, and for particular occasions. And though some have given encouragement to foreign merchants and weavers to settle here; it was when our weaving-trade, and other manufactures, were inconsiderable to the advancement they have since attained: and, that from the settlement of the great customs in Edward the First's time, in all acts of parliament for subsidies

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since passed, aliens had always been charged with an increase of customs above natives, and a discrimination kept up between them; as was particularly remarked by the learned Lord-Chief-Justice Hale, in a tract against a general naturalization. 5. That it was more than probable, that the greatest number that would come over, would be of poor people, which would be of fatal consequence with respect to the many poor industrious families, who would thereby be reduced to the uttermost straits; it being evident, that no hands were wanted to carry on our manufactures, from the great quantities that lay on hand, their cheapness, and the lowness of wages now given. What then would be the effect of such an addition? For these aliens would altogether settle in places of manufacture; there being no instances of any of the late refugees betaking themselves to the spade, plough, or flail. And it would be a very great charge to those parishes wherein they should settle; there being now great numbers of French, who, for want of work, were relieved; and, in a great measure, maintained by the queen's bounty and charity of their churches and other well-disposed persons, who, when naturalized, would have recourse to their own respective parishes for an allowance. 6. That a general naturalization would, in effect, defeat the patent of the act of navigation, which had always been esteemed to conduce to the interest of the nation, by the encouragement and increase of English mariners, and advance of trade. 7. Hereby, in process of time, aliens would be advanced in riches, and her majesty's subjects impoverished; for those beneficial trades, buying and selling by commissions, remittances, and exchanges of money, would, in a great measure, be ingrossed by foreigners, by reason of their many friends and relations abroad. Besides, such aliens living in lodgings, and at little charge, frequently escaping public taxes and parish duties, would be able to undersell and undermine the native merchants. 8. That hereby the treasure of the nation would be exhausted and remitted into foreign parts; for it might well be supposed, that those aliens, that have valuable estates, could not or would not transport the greatest part thereof hither; and, leaving children, and their nearest relations behind them, they would come hither only a design of getting riches, and to return home again therewith, particularly upon a prospect of war; an instance of which we have in the practice of our merchants, who, when they have got estates abroad, constantly return home to enjoy the same. 9. That the queen's customs would hereby be considerably diminished; for many statutes, which lay a greater duty on aliens than on natives, would, as to this, be repealed. 10. That opportunity would hereby be given to merchants to colour the goods and merchandizes of other strangers beyond sea, their correspondents, friends, or relations, to the great detriment of her majesty's customs, and trade of the native subjects; a practice which was offered to be proved before their late majesties and the lords of the treasury; which reasons did influence the judgments of our ancestors, as appears by the statutes of 1 Hen. 7, c. 11, 11 Hen. 7, c. 14. 22 Hen. 8, c. 8. 11. That the duties of package and scavage of the goods of all merchants, as well denizens as aliens, were the indispensible right and inheritance of the commonalty and citizens of London, let to farm by lease (wherein were about 18 years to come) for a fine of 1,000*l.*, and the yearly rent of 950*l.*; and, among other things, were, by act of parliament, charged towards the raising of 8,000*l.* per annum for ever to the orphans, and other creditors of the said city; which duties would be wholly lost, to the great prejudice of the said city, and would render them incapable to support the government of the same. 12. And, in the last place, That, the nation being now engaged in an expensive, though necessary war, taxes high, trade obstructed, great quantities of woollen, and other manufactures, lay unsold; and, as an effect hereof, the several prices of making them very small, many families destitute of work throughout the kingdom. What then, at such a time as this, must be the consequence of inviting hither by a general naturalization, multitudes of poor foreigners, who would only employ themselves in trade and manufactures?

On the other hand, the City of London having petitioned the Commons on the 18th, that they might be heard by their counsel against the said bill; and their request being granted, their lawyers chiefly insisted on the 11th of the before-mentioned Reasons; but, upon examination, it was found, that the duties of package and scavage did not, of late, yield above 20*l.* per annum, most of the foreign merchants being already naturalized. The majority of the House easily discerned the captiousness of the other popular arguments, being thoroughly convinced, both by their own observation, and the reasons alledged, both within and without the walls, 'That' (as the preamble of the bill sets it forth) 'the increase of people is a means of advancing 'the wealth and strength of a nation.' Which maxim, the fundamental of sound politics, was abundantly verified, not only in Prussia, Holland, and other Protestant countries, which had vastly increased in riches by the French refugees settling there; but principally in Great Britain, where, by the industry of the said refugees, several new manufactures had been set up, and others improved, to the great advancement of trade, and the total turning the balance thereof, to the prejudice of France, and benefit of this nation. That, besides the improvement of commerce, the French refugees had greatly contributed towards the support of the Revolution settlement, by putting the best part of their own substance, and of their friends and relations abroad, into the public funds: (Of which they had a fresh instance in their subscribing near 500,000*l.* into the bank of England) insomuch, that, by a modest computation, the re-

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fugees were reckoned to have above two millions sterling in the government. That as they could not be supposed to have brought one half of that money into England, so it was prudence to divert the thoughts they might have, upon the conclusion of the war, to carry their vast gains abroad, (which would very much lessen the current cash and credit of Great Britain,) by granting them the advantages and privileges enjoyed by her majesty's natural-born subjects; which would not only invite them to settle here, but likewise bring over such of their friends and relations as might hope to inherit their estates. That the French refugees had, at all times, in their several stations and callings, given signal proofs of their love for our happy constitution, and of their zeal and affection for the government: and in particular, such of them as had military employments, which they had discharged, both in the late and present war, with distinguished bravery and conduct. That this war had already consumed such a vast number of men, that it was highly necessary to supply that loss by inviting foreigners to come over, whether the war continued, which would still increase the scarcity of men; or whether it was drawing to a period, in which case a great number of hands would be requisite to carry on the manufactures. And in short, that all the objections against a naturalization were grounded upon this false supposition, 'That foreigners 'would ever continue, and be looked upon as 'such:' which was sufficiently confuted by past and daily experience.

When those who were against the Bill perceived they should have no strength, if they set themselves directly to oppose it, they studied to limit strangers in the receiving the Sacrament, to the way of the church of England. This probably would not have hindered many, who were otherwise disposed to come among us: for the much greater part of the French came into the way of our church. But it was thought best to cast the door as wide open as possible, for encouraging of strangers; and therefore since, upon their first coming over, some might chuse the way to which they had been accustomed beyond sea, it seemed the more inviting method to admit of all who were in any Protestant Communion. Accordingly, the Bill was carried in the House of Commons by a great majority, for naturalizing all Foreign Protestants, upon their taking the oaths to the government, and receiving the Sacrament in any Protestant church. All those that appeared for this comprehensive way, were reproached for their coldness and indifference in the concerns of the church. Of this the bishop of Sarum had a large share; for, when the Bill was brought up to the Lords, he spoke copiously for it; whilst the bishop of Chester spoke as zealously against it, who seemed resolved to distinguish himself as a zealot for that which was called High Church. The Bill passed with very little opposition, though it was protested against by several lords, as prejudicial to trade and manufactures, and of ill consequence to our liberties and religion.

Resolutions of Supply.] Feb. 7. The Commons in a grand Committee, considered further of the Supply, and resolved, "To grant, 1st, 1,081,083*l.* 0*s.* 4*d.* for maintaining the forces in her majesty's pay, to serve in Spain and Portugal for the service of the year 1709. And 2ndly, 144,000*l.* towards defraying the charge of transporting land forces." Which Resolutions were agreed to the next day.—On the 11th, in a Committee of the whole House, it was resolved to grant to her majesty, first, 553,855*l.* 11*s.* 4*d.* for her majesty's proportion of the Subsidies payable to her allies, pursuant to the treaties, for the service of the year 1709. And 2ndly, 310,748*l.* 7*s.* 11*d.* to defray the extraordinary charges of the war already incurred, and not already provided for by parliament: which Resolutions were likewise agreed to by the House the next day.

Proposals of the Bank of England to the Commons.] The Funds already found out scarcely answering one half of the necessary sums for the service of the year, and the Commons being somewhat puzzled about Ways and Means to raise the rest, the Ministry bethought themselves of encouraging the Bank of England, to lay the following Proposition before that House:

"To the Honourable the Commons of Great Britain, in Parliament assembled:

"The Governor and Company of the Bank of England humbly propose, That their present fund of 100,000*l.* per annum, payable out of the 5-7ths of the 9*d.* per barrel excise, being continued to them unto the 1st of August, 1711, they are contented after that time to accept 6*l.* per cent. per annum, for their original stock of 1,200,000*l.* together with 4,000*l.* per annum, towards their charges of management (hitherto paid them) out of the said fund. After which payments there being a remainder of 21,000*l.* per annum, on the said fund, they are ready to advance 400,000*l.* at such times as shall be agreed upon, at 6*l.* per cent. per ann. being allowed a discount at 6*l.* per cent. per ann. for such money, from the respective times of its advance, until the said 1st of August, 1711. And they humbly annex to this Article, That they be continued a corporation, with the said fund preserved entire to them, for the term of 21 years, from the said 1st of August, 1711, with all the grants, privileges, and immunities, they now enjoy, by virtue or in pursuance of any act or acts of parliament, redeemable afterwards by parliament on a year's notice, and repayment of the 120,000*l.* first advanced, and likewise of the 400,000*l.* now to be advanced, and all monies then due upon tallies, exchequer orders, or other parliamentary securities.

"They are content to take an annuity of 6*l.* per cent. per annum payable to them out of the duties on Houses, for all the exchequer bills that have been made out of them; and which, for any arrears of interest to be due the 25th of March next, are to be made out to them in pursuance of the act of parliament in that

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behalf (redeemable by parliament' on a year's notice) and to deliver up the said bills, as fast as they can get them into their custody, to be cancelled, so as sufficient provision be made for the payment of the said annuity weekly, for the intermediate time between the said 25th of March next, and the 1st of August, 1710, when the said duties on houses are first to become payable, by the act last mentioned; or, that they be allowed interest upon the whole, by way of rebate, for the said intermediate time: And so that their Fund of 100,000*l.* per annum and corporation, have the prolongation desired by the first article.

"The two preceding articles being agreed to, to supply the public exigencies farther than they are now able to do, the present proprietors (being allowed the dividend of March next) are willing to admit new subsciptions for doubling the present stock, paid in, of 2,201,171*l.* 10*s.*: (upon the payment of 115*l.* for every 100*l.* subscribed) in order to enable them to circulate 2,500,000*l.* in Exchequer Bills, for the government, provided they be not obliged to such circulation, unless the subscriptions above mentioned, be completed. And in case they are completed, they are willing to undertake the circulation of such bills, to the value of the said 2,500,000*l.* upon the terms, allowances, and conditions following, (which they pray may be received as part of the proposal contained in this article,) viz.

"That a sufficient fund or funds be appropriated for the paying off and cancelling the whole 2,500,000*l.* in some certain time.

"That a sufficient fund or funds be appropriated for the payment of 150,000*l.* yearly, (being 6*l.* per cent. per annum, upon the said 2,500,000*l.*) to be thus applied, viz. 75,000*l.* one moiety thereof, for the payment of interest on the bills, to run at 3*l.* per cent. per annum, or 2*d.* a day for each 100*l.* and in proportion for lesser sums; and 75,000*l.* or 3*l.* per cent. per annum, to be paid quarterly to the Bank, for the circulation of the said bills, as money, after they have passed through the revenue, and re-issued from the exchequer, in proportion to what they are standing out) till the whole sum be paid off, or cancelled. That the interest of such Exchequer-Bills be paid off and cleared at the Exchequer, before re-issued from thence. That such bills be first issued at convenient distances of times, with regard to the public services. That the bills so made out be received in all taxes, loans, and payments whatsoever, upon any aids and duties, granted, or to be granted to her majesty, till the full cancelling or paying of all of them; and that, until the said time, they may be locked up as money in her majety's Exchequer. That the Bank be no longer obliged to such circulation or contract, than that the said premium of 3*l.* per cent. per annum be duly paid them, and the said bills be accepted in all payments, as aforesaid. That the Bank be not obliged to answer them as money till the bills are re-issued from the Exchequer. That the bearers of such bills may have right to demand the payment of them, from any receiver or collector of her majesty's revenue throughout Great Britain, out of the public money in his hands. That no more Exchequer-Bills be issued or made out by authority of parliament, or otherwise, without the consent of the Bank. That such agreement made with the Bank, be continued till the said bills are paid off and cancelled. That no member of the Bank, for, or by reason only of his acting in the said circulation, be disabled from being a member of parliament. That the Bank have all other privileges and exemptions in relation to the said Exchequer bills, as they are entitled to by the act of parliament for the bills they now circulate, with such further privileges as the parliament in their wisdom shall think fit, for the better enabling them to perform the contract proposed."

The Proposal of the Bank accepted.] These Proposals having been referred to a committee of the whole House, upon a report from the said committee, the House on the 16th came to these Resolutions:

1. "That towards the raising the Supply granted to her majesty, the Proposition of the governor and company of the Bank of England, for raising of several sums, amounting to 2,900,000*l.* upon such terms and conditions, and with such discount, and by such subscription, as are therein mentioned, be accepted. 2. That an humble Address be presented to her majesty, That she will be graciously pleased to issue a Commission under the Great Seal of Great Britain, for taking subscriptions, for enlarging the capital stock of the Governor and Company of the Bank of England, for the better enabling them to comply with the Proposition of the said Governor and Company, agreed to by the House."

*The Queen's Commission for taking in Subscriptions.**] Pursuant to the said Address, the queen, by a Commission under the Great Seal

* "The books were opened at Mercers' hall on the 22nd of February about nine in the morning, and by one o'clock in the afternoon the whole sum was subscribed. Such was the crowd of people, that brought their money to this new fund, that it was believed a million more would have been subscribed before night if there had been room. This shewed both the wealth of the nation and their entire confidence in the government. It was observable, at this very juncture, the French court had a project for erecting a royal bank for circulating their mint bills, but the design was soon found to be impracticable, because of the great scarcity of money in that kingdom and the almost entire ruin of their public credit. By this subscription, and by a further prolongation of the general mortgage of the revenue, the Commons created good funds for answering all the money they had voted in the beginning of the session. The two third subsidy was appropriated for the interest of the money raised by the bank-scheme." Tindal.

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of Great Britain, dated the 6th of February, constituted and appointed sir Thomas Abney, sir Jonathan Andrews, and divers other persons therein named, or any seven or more of them, to be Commissioners for taking the Voluntary Subscriptions that should be made by, or for any person or persons, natives or foreigners, bodies politic or corporate, of any sum or sums of money, not exceeding in the whole, the sum of 2,201,171*l.* 10*s.* to be added to, and engrafted upon the like sum (being the present Stock paid in of the said Governor and Company) for the doubling thereof: and who should pay down at the time of the said Subscription, one fifth part of the sums by them respectively subscribed; and be willing to pay the remaining four fifth parts thereof, together with 15*l.* per cent. more (being in all 115*l.* for every 100*l.* subscribed) in the manner, and at such times as should be appointed either by act of parliament, or by the Court and the Governor and Company of the Bank of England.

On the 26th, the House resolved to address her majesty, "That she would give directions that there might be laid before them, an Account of what Public Debts had been compounded; what had been received upon such compositions; and what receivers had compounded."

This day, John duke of Marlborough took the oaths, and made and subscribed the declaration, and also took and subscribed the oath of abjuration, pursuant to the statutes.

Thanks of the Lords to the Duke of Marlborough for his eminent Services.] March 2. The Lord Chancellor, pursuant to order, gave the duke of Marlborough the Thanks of the House, for his great and eminent services during the last campaign in Flanders; viz.

"My lord duke of Marlborough; I have the honour to be again commanded by this House, to give your grace their most hearty and unanimous thanks for the great and eminent services you have performed this last campaign, particularly to her majesty and her kingdoms, and in general to all the Allies.—When I last obeyed the like commands, I could not but infer, from your grace's former successes, we had still most reasonable expectations you could not fail to improve them.—I beg leave to congratulate your grace that the observation then made has proved, as it was indeed intended, perfectly true.—I hope I shall not be thought to exceed my present commission if, being thus led to contemplate the mighty things your grace has done for us, I cannot conclude without acknowledging, with all gratitude, the providence of God, in raising you up, to be an instrument of so much good, in so critical a juncture when it was so much wanted."

The Duke's Answer.] To which his grace replied:

"My Lords; I hope you will do me the justice to believe there are very few things, could give me more satisfaction, than the favourable approbation of my services by this House. And I beg leave to assure your lordships it shall be the constant endeavour of my life to deserve the continuance of your good opinion."

Motion for the Demolition of Dunkirk.] The talk of a Treaty being about this time become general, the lord Somers moved in the House of Peers, "That an Address be presented to her majesty, that she would be pleased to take care, at the conclusion of the War, that the French king might be obliged to own her majesty's title, and the Protestant Succession, and that the Pretender might be removed out of the French dominions," which was unanimously approved.

The Committee appointed by the Lords to draw up the Address moved by lord Somers, having prepared it, and their lordships having approved it, it was sent down to the Commons, where Mr. Secretary Boyle represented, "That the British nation having been at a vast expence of blood and treasure for the prosecution of this necessary war, it was but just they should reap some benefit by the peace: and the town of Dunkirk being a nest of pirates, that infested the ocean, and did infinite mischief to trade, he therefore moved, "That the demolishing of its fortifications and harbour be insisted upon in the ensuing treaty of peace, and inserted in the Address:" which, with that amendment, was unanimously approved, and carried back to their lordships by Mr. Secretary Boyle.

Address of both Houses for the Preservation of the Repose and Quiet of Europe, by establishing a firm Friendship among the Allies, &c.] The queen having appointed the 3d, at six of the clock, for receiving the said Address, the Lord Chancellor, on the part of the Peers, and the Speaker of the Commons, on the part of the Commons, attended her majesty with it, being as follows:

"Most Gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons in parliament assembled, considering the great expence of blood and treasure that your majesty and your allies have been at, in prosecuting this long war, for securing the liberties of Europe, do most humbly beseech your majesty, That, for preserving the repose and quiet of Europe, and preventing the ambitious designs of France for the future, your majesty would be pleased to take care, at the conclusion of the war, to continue and establish a good and firm friendship among the allies; and that the French king may be obliged to own your majesty's title and the Protestant Succession, as it is established by the laws of Great Britain; and that your allies be engaged to become guarantees for the same.—And that your majesty would take effectual methods, that the Pretender shall be removed out of the French dominions, and not suffered to return to disturb your majesty, your heirs or successors, in the Protestant line.—And for the

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security of your majesty's dominions, and the preservation of Trade, and the general benefit of the allies, your majesty will be graciously pleased, that care may be taken that the fortifications and harbour of Dunkirk may be demolished and destroyed."

The Queen's Answer.] Her majesty's Answer to this Address was this:

"I am of the same opinion with my two Houses of Parliament in the several particulars of this Address; as I have also been in all the other which they have made on the same subject. I assure you no care shall be wanting on my part to attain the ends they have desired."

Resolutions of Supply.] This Answer being reported to the Commons, they ordered an Address of Thanks to be presented to her majesty; and the same day, in a committee of the whole House, considered farther of ways and means for raising the Supply, and came to these Resolutions: "First, That, in further part of the yearly fund to be settled pursuant to the proposition of the governor and company of the bank of England, for raising part of the supply granted to her majesty, for the service of the year 1709, the duties on coffee, chocolate, tea, spices and pictures, and the 15 per cent. on muslins, which were continued, and the new additional duties on coffee, tea, spices, pictures, drugs, china-wares and callicoes, which were granted (amongst other things) by the act of the third year of her majesty's reign, entitled, 'An Act for continuing duties on low wines, and upon coffee, tea, chocolate, spices and pictures, and upon hawkers, pedlars and petty chapmen, and upon muslin; and for granting new duties upon several of the said commodities, and also upon callicoes, china-wares and drugs, until the 24th day of June 1710;' and which, by an act of the 6th year of her majesty's reign, were continued from the 23rd of June 1710, for the term of 4 years from thence next ensuing, shall be further continued from the expiration of the said term of 4 years, and be payable to her majesty, her heirs and successors for ever. 2dly, That, immediately from and after the time that the sum now remaining unsatisfied of the loans not exceeding 700,000 *l.* secured by the said acts of the 3d and 6th years of her majesty's reign, upon the said duties on coffee and other commodities therein respectively mentioned, and the interest thereof shall be duly paid off and discharged, or that sufficient money shall be reserved in the Exchequer for that purpose, all the moneys which shall, or may from thenceforth arise by the duties of coffee, tea, chocolate, spices and pictures, muslins, drugs, china-wares and callicoes therein continued or granted until the 24th day of June 1714, shall be subjected and made liable towards making good the said yearly fund to be settled as aforesaid. 3dly. That, immediately from and after the time that the sum now remaining unsatisfied of the loans, not exceeding 636,957 *l.* 4*s.* 2*d.* secured by several acts of the 3rd and 6th years of her majesty's reign, upon the two thirds of the Subsidies therein mentioned, and the interest thereof shall be fully paid off and discharged, or that sufficient money shall be reserved in the Exchequer for that purpose, all the moneys which shall or may from henceforth arise by the said two thirds of the said subsidies, until the 7th of March 1711, shall also be subjected and made liable, towards making good the said yearly fund, to be settled as aforesaid. 4thly, That, towards raising the supply to be granted to her majesty, the impositions upon wines, vinegar, and tobacco, which were first granted to king James 2d, in the first year of his reign; and the impositions upon the East-India goods, and other goods charged therewith, which were first granted to their late majesties king William and queen Mary, in the 2nd year of their reign, and the additional impositions upon several goods and merchandizes which were at first granted to king William and queen Mary, in the 4th year of their reign; and the several duties on whale-fins imported, which were granted to king William in the 9th year of his reign; all which duties have continuance by several subsequent acts, until Aug. 1, 1714, shall be farther continued to her majesty, her heirs and successors, from the last day of July 1714, to the 1st day of August 1716, and no longer. 5thly, That, from and after the time that all the principal and interest, which by former acts of parliament are charged upon the said impositions upon wines, vinegar, tobacco, and East-India goods, and upon the said additional impositions, and upon the same duties upon whale-fins, or upon them or any of them, jointly with other duties, shall be paid off and satisfied; or that sufficient money shall be reserved in the Exchequer for that purpose, all the monies which shall from thenceforth arise by the said impositions upon wine, vinegar, tobacco, and East-India goods, and by the said additional imposition and duties upon whale-fins, shall be appropriated towards raising the supply granted to her majesty. 6thly, That all tobacco to be used or consumed on board any of her majesty's ships of war in any part of Europe (which shall be sold by the commander or purser) be stampt. 7thly, That a duty be laid upon the said stamps. 8thly, That the said duty be one penny for every stamp to be affixed to every four pound weight of such tobacco, the same to be paid by the manufacturer thereof." Which Resolutions being the next day reported were agreed to by the House.

March 7. The House considered farther of Ways and Means, and resolved, 1st, "That for making good the allowance of 3*l.* per cent. per ann. for circulation of the Exchequer-Bills, to be circulated by the governor and company of the Bank of England, from the time the said Exchequer-Bills shall begin to be issued, and the interest of 2*d.* per diem for every 100*l.* to be borne upon the said bills, until the funds which are to be made liable to the said allowances for interest and circulation shall take effect, and be sufficient for that purpose, a

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power and direction be given for issuing like Exchequer-bills, quarterly for so much as the said allowances for interest and circulation shall amount unto; and that the said quarterly bills have also the like allowances as to the interest and circulation from the respective times of their being made forth, and have the same currency in the public revenues, and be also chargeable upon the same cancelling funds, and be in all respects circulated upon the same terms and conditions as the other Exchequer bills, to be made forth in pursuance of the proposition of the said governor and company. 2dly, That towards raising a sufficient fund or funds for the paying off and cancelling, in some certain time, the Exchequer bills to be circulated by the governor and company of the Bank of England in order to her majesty's supply for the service of the year 1709, that moiety or half part of the subsidy of tonnage and poundage, and other duties and sums of money payable upon wines, goods and merchandizes imported, which were granted to his late majesty king Charles 2, for his life by an act of parliament in the 12th year of his reign, and which by several subsequent acts have been granted to continue till the first day of August 1714, shall be further continued from the last day of July 1714, and be payable to her majesty, her heirs and successors for ever: and that the same and all arrearages thereof (not already appropriated by any former act or acts of parliament in that behalf) shall be made subject and liable for, or towards the payment of 200,000*l.* per ann. to be appropriated and applied for, and towards the paying off and cancelling the said Exchequer-Bills until they shall be wholly discharged; the said 200,000*l.* per ann. to commence from the time that the loans made, or to be made upon an act of the 6th year of her majesty's reign, and charged on the said half subsidy, and other duties therein mentioned and all the interest thereof shall be satisfied. 3dly, That the excess or surplus which shall, from time to time arise, of and from the other moiety or half part of the subsidies of tonnage and poundage and other duties and sums of money payable upon wines, goods and merchandizes imported, which were first granted in the 12th year of the reign of king Charles 2, and which, by several subsequent acts, had continuance until the 1st of August 1712, for the purposes therein mentioned: And by an act of the 6th year of her majesty's reign, were further continued for the term of 96 years from the last day of July 1712, for payment of annuities, not exceeding 80,000*l.* per ann. (which excess or surplus, by a clause in the said act of the 6th year of her majesty's reign was reserved to be disposed for the public use and service, and not otherwise) and all arrearages of the said half subsidies and duties not already appropriated, or to be applied by any act or acts of parliament in that behalf, shall also be made subject and liable for or towards the payment of the said 200,000*l.* per ann. for cancelling and discharging the said Exchequer-Bills as aforesaid. 4thly, That the excess of surplus which shall from time to time arise, as well by the duties of coffee, tea, chocolate, spices, pictures, muslins, drugs, chinawares and callicoes, as by the two third parts of the subsidies of tonnage and poundage, made liable to the payment of the allowances amounting to 6 per cent. per ann. or thereabouts for interest and circulation of the said Exchequer-Bills, after the same duties and revenues shall commence and take effect for that purpose (which excess or surplus shall remain from time to time,) after discharging or leaving sufficient to discharge the said allowances, amounting to 6 per cent. per ann. or thereabouts, shall likewise be made subject and liable for, or towards the payment and making good of the said 200,000*l.* per ann. for cancelling the said Exchequer-Bills aforesaid. 5thly, That, in case at the end of any year, after the time when the said 200,000*l.* per ann. is to commence as aforesaid it shall appear that the funds intended as aforesaid for making good the same shall be deficient for that purpose. Then, and so often every such deficiency shall and may be made up out of the produce of these funds in any subsequent year or years, in which shall appear to be an overplus, to be applied for, or towards making good of such deficiency. And 6thly, That the duty upon the exportation of copper of the produce of Great Britain, and all brass wire made here be taken off." Which Resolutions being the next day reported, were agreed to by the House, and a bill ordered to be brought in upon these, and the other resolutions agreed to three days before.

A Bill for exchanging Tobacco for French Wines dropped.] Some time before a Bill had been brought into the House of Commons, "For the Exportation of Tobacco and other commodities, and manufactures of the growth and product of Great Britain," the design of which was, to exchange Tobacco for French Wines: But the Portuguese Ambassador having by a Memorial represented to her majesty, and by word of mouth, to several members without doors, That the bill was contrary to the alliance between her majesty and the king his master; and it being considered besides, that the said exchange would redound to the advantage of France, and to the benefit of five or six persons in Great Britain only: After the bill had been twice read, and committed to a Committee of the whole House, the question was put on the 9th, that the whole House should then resolve itself into the said Committee; which being then carried in the negative, the bill was dismissed, by putting off the consideration of it for a month. And on the other hand, a bill was ordered to be brought in, "For the more effectual prohibiting the importation of French wines, and all other commodities of the growth and product of France."

Bill for preserving the Privileges of Ambassadors.] The deficiency of the laws to punish insults, in the cases of Foreign Ministers, being apparent in the case of the Muscovite Ambassador, a Bill was brought into the House of

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Commons, "For preserving the Privileges of Ambassadors and other Foreign Ministers." Count Gallas, the Imperial and Spanish envoy, having got a copy of it, communicated it to baron Spanheim, the Prussian Ambassador, at whose house there was a meeting of Foreign Ministers, who resolved to lay before the secretaries of state their observations on the Bill, in a Memorial, importing, "That the preamble of the bill mentioned only the particular indignity offered to the Muscovite Ambassador, and his being arrested and taken out of his coach by violence, &c. in contempt of the protection granted by her majesty, without taking notice of the law of nations, on which the privileges of ambassadors are founded, and which is superior and antecedent to all municipal laws: and therefore they insisted, that in the preamble these words should be added, 'Contrary to the 'law of nations, and in prejudice of the rights 'and privileges, which ambassadors, and other 'public ministers, authorized and received as 'such, have at all times been thereby possessed 'of, and which ought to be kept sacred and in-'violable.' 2. That, in the Clause for preventing for the future the seizing, arresting, or imprisoning of Public Ministers, it should be made criminal to offer them any insult or ill treatment. 3. That their equipages, goods, and other effects, of what nature soever, ought likewise to enjoy the same protection, with their persons and servants, and not be seized or stopped on any pretence. 4. That their houses ought to be accounted and declared sanctuaries, and no bailiffs, or other officers of justice, allowed to enter the same. 5. And that foreign ambassadors, and other ministers, ought to enjoy these privileges from their first coming into Great-Britain, till they are out of her majesty's dominions, even after they have had their audience of leave, as long as they retain their characters." The substance of this Memorial being communicated to the Committee, to whom that Bill was referred, they inserted the first Amendment in the preamble, but did not think proper to mention the other particulars: and, Mr. Compton having reported the several amendments made to the bill, the House added a clause, "That no person should be proceeded against for having arrested the servant of an ambassador, or Public Minister, by virtue of this act, unless the name of such servant be first registered in the office of one of the principal secretaries of state, and by such secretary transmitted to the sheriffs of London and Middlesex, who shall hang up the same in some public place in their offices, &c." and ordered the bill to be ingrossed. The foreign ministers, having also procured a copy of this last clause, held another assembly at baron Spanheim's house, at which the earl of Sunderland assisting, they represented to him, "That the exacting lists of foreign ministers servants was a thing unpractised in other courts, and liable to several inconveniencies; and desired besides, that the lord chamberlain of her majesty's houshold might be added to the number of persons appointed by this bill, to take cognizance of the offences committed against the privileges of Foreign Ministers, and to inflict such punishments, as they shall judge fit." But the parliament did not think fit to make any more alterations in the bill.

Bill against Public Wagers.] The Commons being informed, that the humour of laying Wagers about the events of war was grown to such an height, that many unwary persons were ruined by it, and that the most crafty in those bargains maintained clandestine correspondences abroad, which might be of dangerous consequence to the government, a Bill was brought in, which passed both Houses, and received the royal assent, to prevent the laying of Wagers relating to the Public.

Resolutions respecting Nevis and St. Christophers.] March 14. The House of Commons, in a grand Committee, took into consideration the Report of the Lord High-Treasurer, made upon the Address to her majesty, relating to the people of Nevis and St. Christophers, and resolved, "That it did appear that the Losses they had sustained by the late invasion of the French, did amount to upwards of 300,000*l.* 2. That it would be for the advantage of the trade of Great Britain, that the inhabitants of the said islands be enabled to resettle there." These Resolutions, being on the 18th reported, were agreed to by the House; and at the same time a motion was made, that a Supply be granted for enabling the said inhabitants to resettle in those islands; which on the 21st, in a grand Committee, was carried in the affirmative. And on the 25th, likewise in a grand Committee, it was resolved, "That the sum of 103,203*l.* 11*s.* 4*d.* be granted for the use of such proprietors or inhabitants only of Nevis and St. Christophers, who were sufferers by the late French invasion there, and who shall resettle, or cause to be resettled their plantations in the said islands." Which Resolution was, on the 6th of April, reported, and agreed to by the House.

Proceedings on the Bill concerning Trials of Treason in Scotland.] The consideration of the state of the nation, with respect to the late Invasion, gave occasion to a bill concerning trials of treasons in Scotland, under the title of "An Act for improving the Union of the two kingdoms." This bill caused very great and long debates, and sprung from the proceedings against the suspected persons in Scotland, and particularly from a trial of some gentlemen of that kingdom, who had left their houses, when the Pretender was on the sea, and had gone about armed and in so secret and suspicious a manner, that it gave great cause of jealousy. There was no clear evidence to convict them; but there were very strong, if not violent presumptions against them. Some forms in the trial had not been observed, which the criminal court judged were necessary, and not to be dispensed with. But the queen's advocate, sir James Stuart, was of another mind. The court thought it was necessary

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by their laws, that the names of the witnesses should have been signified to the prisoners 15 days before the trial. But the queen's advocate had not complied with this, as to the chief witnesses, so that the court could not hear their evidence. He did not upon that move for a delay; and therefore the trial went on, and the gentlemen were acquitted. Severe expostulations passed between the queen's advocate and the court. They complained of one another to the queen, and both sides justified their complaints in print. Upon this it appeared, that the laws in Scotland, concerning Trials in Cases of Treason, were not fixed nor certain. For which reason a bill was brought into the House of Commons to settle that matter; but it was so much opposed by the Scots members, that it was dropped in the committee. It was taken up and managed with more zeal by the Lords.

It consisted of three heads: all crimes, which were high treason by the law of England, and these only, were to be high-treason in Scotland. The manner of proceeding settled in England was to be observed in Scotland; and the pains and forfeitures were to be the same in both nations. The Scots lords opposed every branch of this act. They moved, that all things, that were high-treason by the law of England, might be enumerated in the act, for the information of the Scots nation; otherwise they must study the book of statutes, to know when they were safe, and when they were guilty. To this it was answered, that direction would be given to the judges, to publish an abstract of the laws of high-treason, which would be a sufficient information to the people of Scotland in this matter. That nation would by this means be in a much safer condition than they were now; for the laws they had, were conceived in such general words, that the judges might put such constructions on them, as should serve the ends of a bad court; but they would by this act be restrained in this matter for the future.

The second head in this Bill occasioned a much longer debate: it changed the whole method of proceedings in Scotland. The former way there was, the queen's advocate signed a citation of the persons, setting forth the special matter of high-treason, of which they were accused. This was to be delivered to them, together with the names of the witnesses, 15 days before the trial. When the jury was impannelled, no peremptory charges were allowed: reasons were to be offered with every challenge; and, if the Court allowed them, they were to be proved immediately. Then the matter of the charge, which is there called the relevancy of the libel, was to be argued by lawyers, whether the matter, suppose it should be proved, did amount to high-treason, or not. This was to be determined by a sentence of the Court, called the interloquitur; and the proof of the fact was not till then to be made. Of that the jury had the cognizance. Anciently the verdict went with the majority, the number being fifteen; but, by a late act, the verdict was to be given upon the agreement of two third parts of the jury. In the sentence, the law did not limit the judges to a certain form, but they could aggravate the punishment, or moderate it, according to the circumstances of the case. All this method was to be set aside; a grand jury was to find the bill; the judges were only to regulate proceedings, and to declare what the law was; and the whole matter of the Indictment was to be left intire to the jury, who were to be twelve, and all to agree in their verdict.—In one particular the forms of Scotland were much preferable to those in England; the depositions of the witnesses were taken indeed by word of mouth, but were writ out, and after that were signed by the witnesses; they were sent into the jury; and these were made a part of the record. This was very slow and tedious; but the jury, by this means, was more certainly possessed of the evidence, and the matter was more clearly delivered down to posterity; whereas the records in England are very defective, and give no light to an historian who peruses them.—The Scots opposed this alteration of their way of proceeding. They said, that neither the judges, the advocates, nor the clerks, would know how to manage a trial of treason. They insisted most on the having the names of the witnesses to be given to the persons some days before their trial. It seemed reasonable that a man should know who was to be brought to witness against him, that so he might examine his life, and see what credit ought to be given to him. On the other hand, it was said, this would open a door to practice, either upon the witnesses to corrupt them, or in suborning other witnesses to defame them. To this it was answered, that a guilty man knew what could be brought against him; and, without such notice, would take all the methods possible to defend himself. But provision ought to be made for innocent men, whose chief guilt might be a good estate, upon which a favourite might have an eye; and therefore such persons ought to be taken care of. This was afterwards so much softened, that it was only desired that the names of the witnesses, who had given evidence to the grand jury, should, upon their finding the bill, be signified to the prisoner five hours before his trial. Upon a division of the House on this question, the votes were equal; and therefore by the rule of the House, that in such a case the negative prevails, it was lost.

Upon the third head of the Bill the debates grew still warmer. In Scotland many families were settled by long entails and perpetuities; and therefore it was said, that since, by one of the Articles of the Union, all private rights were still preserved, no breach could be made on these settlements. Bishop Burnet carried this further: he thought that it was neither just nor reasonable to set the children on begging for their father's faults: that the Romans, during their liberty, never thought of

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arrying punishment so far: that it was an invention under the tyranny of the emperors, who had a particular revenue called the Fife; and all forfeitures were claimed by them, from whence they were called confiscations: that it was never the practice of free governments; that Boulogne flourished beyond any town in the pope's dominions, because they made it an article of their capitulation with the pope, that no confiscation should follow on any crime whatsoever: that in Holland the confiscation was redeemable by so very small a sum as an hundred guilders. That many instances might be brought of prosecutions only to obtain the confiscation. But in this none of the lords seconded the bishop. It was acknowledged that this was just and reasonable, and fit to be passed in good times; but, since the nation was then exposed to so much danger from abroad, it did not seem advisable to abate the severity of the law. But clauses were agreed to, by which, upon marriages, settlements might be made in Scotland as was practised in England; for no estate is forfeited for the crime of him, who is only tenant for life. By this act also tortures were condemned; and the queen was impowered to grant commissions of Oyer and Terminer, as in England, for trying treasons. The Scots insisted on this, that, the justiciary or the criminal court being preserved by an article of the Union, this broke in upon that. It was answered, that the criminal court was still to sit in the time regulated; but these commissions were granted upon special occasions. In the intervals between the terms, it might be necessary, upon some emergency, not to delay trials too long. But, to give some content, it was provided by a clause, that a judge of the criminal court should be always one of the quorum in these commissions. Thus the bill passed in the House of Lords, notwithstanding the opposition of all the Scots lords, with whom many of the Tories concurred, they being disposed to oppose the court in every thing, and to make treason as little to be dreaded as possible.

The Bill met with the same opposition in the House of Commons; yet it passed with two amendments. By one, the names of the witnesses, who had appeared before the grand jury, were ordered to be sent to the prisoner ten days before his trial. The other was, that no estate in land was to be forfeited upon a judgment of high-treason: which came up fully to the motion which bishop Burnet had made. Both these amendments were looked on as such popular things, that it was not probable that the House of Commons would recede from them. Upon that, the Whigs in the House of Lords did not think fit to oppose them, or to lose the bill; and therefore it was moved to agree to these amendments, with this proviso, moved by the lord Somers, that they should not take place till after the death of the Pretender. It was said, that, since he assumed the title of king of Great Britain, and had so lately attempted to invade the nation, it was not reasonable to lessen the punishment, and the dread of treason, as long as he lived. Others objected to this, that there would be still a Pretender after him, since so many persons stood in the lineal descent before the house of Hanover, so that this proviso seemed to be, upon the matter, the rejecting the amendment. But it was observed, that to pretend to the right of succeeding was a different thing from assuming the title, and attempting an invasion. The amendment was received with this proviso; but those, who were against the whole bill, did not agree to it. The House of Commons consented to the proviso, which the Lords had added to their amendment, with a further addition, that it should not take place till three years after the house of Hanover should succeed to the crown.

This met with great opposition; it was considered as a distinguishing character of those, who were for or against the present constitution and the succession; the Scots still opposing it on the account of their formal laws. Both parties collected their strength, and many, who had gone into the country, were brought up on this occasion; so that the bill, with all the amendments and proviso's, was carried by a small majority; the Lords agreeing to this new amendment. The Scots members in both Houses seemed to apprehend, that the bill would be very odious in their country; and therefore, to maintain their interest at home, they who were divided in every thing else, did agree in opposing this bill.

The court apprehended, from the heat with which the debates were managed, and the difficulty in carrying the bill through both Houses, that ill disposed men would endeavour to possess people with apprehensions of bad designs and severities that would be set on foot; and therefore resolved to have an Act of Grace immediately upon it. It was the first the queen had sent, though she had now reigned above seven years. The ministers, for their own sakes, took care that it should be very full. It was indeed fuller than any former Act of Grace. All treasons committed before the signing the act, which was the 19th of April, were pardoned, those only excepted that were done upon the sea. By this, they who had embarked with the Pretender, were still at mercy. This act, according to form, was read once in both Houses, and with the usual compliments of thanks.

Protest thereon.] Before the passing of the said Bill, the following Protest was entered:

"Dissentient We humbly beg leave to protest against the title, preamble, and body of this bill, for the reasons following: 1. We conceive the general title of this bill very improper, because it does not express the particular purposes of it, which are altering the laws of the northern part of Britain, and the method of trials in matters relating to treason; and because we apprehend, this act will be so far from answering its title, of improving the Union, that we are humbly of opinion, and sincerely persuaded, it may have a quite con-

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trary effect. 2. The preamble of this bill may happen to give unnecessary grounds of suspicion, to mistaken people, that there is a tendency towards a total alteration of the laws of Scotland, which cannot but create great uneasiness to that people, who rested in a confidence, that their private laws were secured to them by the Articles of the Union, so as not to be altered without the evident utility of the people of Scotland. 3. It does not appear to be necessary, that new courts and jurisdictions should be created in a country where the courts of justiciary were to be preserved in the exercise of their authority by the Articles of the Union, though it might be thought reasonable, that the same facts and offences might be esteemed treason and misprision of treason, and that the punishments might be likewise the same; and we do humbly conceive, that the commissions of Oyer and Terminer may be construed an impairing the authority of the courts of justiciary in Scotland, and the entire alteration of the methods of trials may render it very difficult to prosecute any person for the crimes of treason, and very insecure for the people, who are to make their defence in unknown methods. 4. The general description of treason in this act, without specifying either the particular facts that shall be accounted treasonable, or the particular laws to be established in both kingdoms, is a just exception against the bill; for it would have been a great satisfaction to the people of North Britain, if these laws had been reviewed in a parliament where their representatives might have had time to have examined the reasonableness of them, and had a share in the passing them; but the enacting all the laws of England, without entering into any detail or consideration of them, may create great uneasiness. 5. The present laws of Scotland, in relation to the forfeitures, ought to have been considered as established upon most solid foundations; they were settled upon the tender of the crown to king William, and accordingly passed into the laws at that time, which the subjects might well conclude they should never be deprived of: But the proviso in this act relating to marriage settlements is only a remedy in part, and but a share of the just provisions made on behalf of the subjects in that remarkable and happy Revolution, which so much improved the constitution of both kingdoms.—Lastly, We conceive, that whereas the qualification for a jury-man to be sworn upon the pannel is by this act affixed to the possession of 40*s.* per annum, it ought to have been kept up to what the law of England now ordains in trial, which is, that the juryman be seized of 10*l.* per annum in his own right, or that of his wife's. (Signed) Buckingham, Annandale, Roseberie, Seafield, Crawford, Dover, Montrose, Guilford, Denbigh, Loudoun, Orkney, Rothes, Greenwich, Roxburgh, Gi. Sarum, Marr, Peterborough, Wemyss, Isla, Hamilton."

The Queen's Speech, by Lords Commissioners at the Close of the Session.] April 21. A Speech of the Lord-Commissioners was delivered to both Houses by the Lord Chancellor as followeth;

"My Lords and Gentlemen; Being now, by the queen's directions, to put an end to this session, we have it in command from her majesty to assure you, her majesty is extremely sensible of the zeal and affection you have shewn for her service and the good of her people, and of the prudence and dispatch with which you have completed the important business of this session.—The vigour and firmness of your proceedings have already had a very good effect on affairs abroad; and there is ground to hope, that by God's blessing on her majesty's endeavours, this will every day appear more and more evident.

"Gentlemen of the House of Commons; We are to return you in particular her majesty's thanks, for your having provided so timely and effectually the supplies found necessary to the prosecution of this war, with an augmentation of those forces, which in conjunction with our allies, have, by God's assistance, procured us the present advantages over the common enemy.—Our cheerfulness in giving such large Supplies at this juncture, and the ready advances which have been made for their being effectual with so little burden to the people, shew you perfectly understand how to make a right use of our past successes, and that nothing is too difficult for so dutiful and affectionate subjects, acting in defence of so good a cause.

"My Lords and Gentlemen; her majesty, through the whole course of her reign, having been desirous to shew all possible instances of goodness and clemency to her subjects, hath now, for the strengthening the Union, and quieting the minds of all her subjects throughout the United Kingdom, thought fit to grant to them an Act of Grace and Free Pardon, in a more full and beneficial manner than hath been formerly used; not doubting but all her people will make a right use of, and suitable returns on their part for, so extraordinary an indulgence.—Her majesty, having also been graciously pleased to give the royal assent to the several bills you have presented during this session, commands us to observe to you on that occasion, that the life and benefit of all laws, how wisely soever they are framed, do chiefly consist in a due and regular execution of them; and therefore to exhort you, that when you return to your countries, you would think it indispensably your duty, to set a good example towards an impartial and steady observation of the many good laws which have been enacted (especially since the late Revolution), and which fall within your provinces to execute; it being but too evident, that the defect at present attending us, is not so much the want of new laws, as the neglect and disregarding those already made."

Then the Lord Chancellor said, "My Lords and Gentlemen; it is her majesty's royal will and pleasure, that this parliament be prorogued

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to Thursday the 19th day of May next: and this parliament is prorogued accordingly."

Principal Occurrences during the Recess.] Conferences, at the Hague, having been opened for a general peace, the duke of Marlborough and Lord Townsend had been appointed joint plenipotentiaries in behalf of Great Britain; and preliminaries, to the last degree mortifying on the side of France, (such as the restoring the whole Spanish monarchy to king Charles within two months, as likewise the Netherlands, except Cambray and St. Omer's, several places to the Empire, Savoy to the Duke, and Newfoundland to England, the demolishing of Dunkirk, the removing the Pretender; no suspension of arms till the article relating to the Spanish Monarchy was fulfilled, &c. &c.) were agreed upon, but not ratified, upon which it was resolved to break off the Treaty, and proceed with the war. Accordingly the campaign was opened on all sides, and once more the fate of Europe was left to the decision of the sword. —But little was done on the Rhine, as usual; the Portuguese ventured on an engagement and were beaten. The Duke of Savoy gave the French no disturbance in Dauphiny, because the Emperor refus'd to come up to the price he had set upon his services: And in Spain, when king Philip would have engaged count Staremberg, the French General, Besons, produced his master's orders to avoid a battle. Thus the grand issue was left to be determined in Flanders, and the principal strength of both parties was stationed to dispute the point accordingly.—While the French were expecting the confederates to open the campaign with the siege of Ypres, they suddenly invested Tournay; and in the beginning of September, made themselves masters of it. After which they undertook Mons; but were prevented from making any progress in their design, by the arrival of the marshals Villars and Boufflers; who possess'd themselves of a wood, and covered their camp with lines almost impenetrable, before a resolution was taken to dislodge them. Mons was, however, thought worthy so desperate an attempt; and to the amazement of all military critics, it was crowned with success. The enemy, however, retired to Valenciennes, and Mons surrendered in October; with which exploit ended the campaign.—At sea nothing was done, or thought of, though the French had left it free and open to whatever enterprizes we pleased to undertake.

SECOND SESSION OF THE SECOND PARLIAMENT OF GREAT BRITAIN.

The Queen's Speech on Opening the Session.] November 15. The Parliament being met, the Queen, who had not been in person there during the last session, came and made the following Speech to both Houses:

"My Lords and Gentlemen; it is a great satisfaction to me, that I am able to give you so good an account of the progress of the war, since the last session of parliament. In the beginning of this year our enemies made use of all their artifices, to amuse us with false appearances and deceitful insinuations of their desire of peace; in hopes that from thence means might be found, to create some divisions or jealousies among the Allies. But they were entirely disappointed in their expectation; and such measures were taken upon that occasion, as made it impossible for them long to disguise their insincerity. The operations of the war were not delayed; and the campaign, which, notwithstanding the backwardness of the season, immediately followed, has been at least as glorious for the allies, as any of those which have preceded it. God Almighty has been pleased to bless us with a most remarkable Victory; and with such other great and important successes, both before and after it, that France is thereby become much more exposed and open to the impression of our arms; and consequently more in need of a peace, than it was at the beginning of this campaign. However, the war still continuing, I find myself obliged again to desire you, gentlemen of the House of Commons, to grant me such supplies as you shall judge necessary, for the assisting our Allies in all parts, and the vigorous prosecution of our advantages; that we may put the last hand to this great work, of reducing that exorbitant and oppressive power, which has so long threatened the liberties of Europe. I assure you, that all you give shall be carefully applied to the uses of the war, if it continues; or to the lessening of the debts it has necessarily occasioned, in case of a peace; which, though the many wants and distresses of our enemies may naturally lead us to expect, yet our own late experience may fully convince us, is not to be depended upon any other way, than by being in a condition to compel them to such terms as may be safe and honourable for all the Allies.

"My Lords and Gentlemen; I think it proper to take notice to you, that the great dearth and scarcity under which our neighbours abroad have suffered this year, begins to affect us in some measure at home, by the temptation of profit in carrying out too much of our corn, while it bears so high a price in foreign parts. This occasions many complaints from the poor; for whose sake I earnestly recommend to you, to take this growing evil into your consideration; having not neglected any thing on my part, towards the remedying of it, that the law would allow. I cannot conclude without observing to you, of what great advantage it will be at this time, to the end we all propose to ourselves, that the greatest dispatch be given to the necessary preparations for carrying on the war."

The Lords' Address thereon.] Nov. 16. The Lords agreed upon the following Address:

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, cannot conceal the joy and satisfaction which filled our hearts, in seeing your majesty's royal person sitting upon your throne, after the great misfortune which deprived

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ed us of your presence during the last session of parliament: nor can we forbear to return our humble and hearty thanks for your most gracious speech; whereby it appears how readily your tenderness for your people inclined your majesty to hearken to proposals of peace; how wisely and steadily you proceeded in the first steps of the treaty, and how justly you resented the artifices and insincerity of the enemy, by the immediate and vigorous prosecution of the war. This soon made it appear, that peace was the choice of your moderation, and must prove the only refuge of your enemies. The last campaign was so very glorious, whether we consider the strength of the towns which were taken, or the difficulty and importance of the victory which was obtained, that we beg leave to congratulate your majesty upon the continued success of your arms, and those of your Allies, under your general the duke of Marlborough; whose conduct is worthy of the chief command in so just a war, and whose valour is equal to the bravery of your troops. And we beg leave to assure your majesty, that this House will, to the utmost of their power, support your majesty to carry on the war, and improve the advantages you have gained, till France is compelled to submit to the terms of a safe and lasting peace for us and all your Allies."

The Queen's Answer.] Her majesty gave this Answer:

"I thank you very kindly for your Address; and am extremely sensible of the constant proofs you give me of your great zeal and affection for my service and the public good."

The Commons' Address.] The Address of the Commons was as follows:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return our most humble thanks to your majesty for your most gracious speech from the throne; and to congratulate your majesty upon the continued successes of the last campaign, particularly the Victory, obtained near Mons by the troops of your majesty, and those of your Allies, under the command of the duke of Marlborough.—A Victory so remarkable in all its circumstances, as must convince your enemies, that the courage and resolution of your troops, conducted by so great a general, are superior to the greatest difficulties.—And your majesty may be assured, that, since the public credit has been so well supported, since your councils have been so steady, and your Allies so firm, that no French artifices could create jealousies or divisions amongst them; and, since your arms have been so powerful, that no entrenchments or fortifications could withstand them; we your faithful Commons, under such encouragements, in duty to your majesty, and those we represent, will, by speedy and effectual supplies, enable your majesty to dispatch the necessary preparations, for carrying on the war in such a manner, as shall, by the blessing of God, oblige the common enemy to accept a peace upon such terms, as shall be a lasting security to your majesty and your Allies."

The Queen's Answer.] The Queen gave this Answer:

"I return you my hearty thanks for your Address, and the assurances, you give me, of providing speedy and effectual supplies, for carrying on the war; which, I persuade myself, will have a very good effect, for the advantage of the whole confederacy."

Thanks given to the Duke of Marlborough.] Nov. 17. The Thanks of the House of Lords were given to the Duke of Marlborough, by the Lord Chancellor, as follows:

"My Lord Duke of Marlborough; I am commanded by the Lords (when you should first appear in your place) to give, as I now do, the Thanks of this House, for your continued and eminent services to her majesty, and the public, during the last campaign; of which nothing can be said greater, than her majesty, (who always speaks with the utmost certainty and exactness) has declared from the throne, 'That it has been at least as glorious as any which have preceded it.'—But this repetition of the Thanks of this august assembly has this advantage of the former, that it must be looked upon as added to, and standing on, the foundations already laid here, in the records of this House, for the preserving your memory precious to all future times: so that your grace has also the satisfaction of seeing this everlasting monument of your glory rise every year much higher.—May God continue, in a wonderful manner, to preserve so invaluable a life; that you may not only add to this structure, but finish all with the beauties and ornaments of an honourable and lasting peace!"

Then the Duke of Marlborough said; "I look upon it as the greatest mark of honour I could receive, that your lordships are pleased to take so much notice of my endeavours to serve the queen and my country.—I beg leave to do justice to all the officers and soldiers who have served with me: It is not possible for men to shew more zeal for her majesty's service, or greater bravery than they have done."

The Commons also resolved, *nem. con.* "That the late Victory at Blaregnies, obtained by his grace the duke of Marlborough, and the other great and important successes of the last campaign, were so remarkable, that this House thought itself obliged to express how sensible they were of the honour and advantages which the kingdom and the whole confederacy had received by his eminent services; and that a Committee, by order of the House, did give his grace their Thanks, and congratulate his grace's safety and return to Great Britain."—On the 23d, Mr. Comptroller reported, That the committee appointed had waited upon his grace the duke of Marlborough and delivered to him the Resolution of the House, and that thereupon his grace was pleased to make this Answer: "It is a very

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great honour and satisfaction to me, that the House of Commons is pleased to take so much notice of my endeavours to serve the queen and my country.—I cannot be just to all the officers and soldiers who have served with me, unless I take this occasion to assure you, that their zeal and affection for the service, is equal to the courage and bravery they have shewn during this whole war.

PROCEEDINGS ON THE IMPEACHMENT OF DR. SACHEVERELL.

Complaint in the Commons of Dr. Sacheverell's Sermons.] Dec. 13. A Complaint being made to the House of Commons, of two printed Books; the one intituled, "The Communication of Sin; a Sermon, preached at the Assizes, held at Derby, August 15, 1709, by Dr. Henry Sacheverell;"* and the other intitled, "The Perils of false Brethren, both in Church and State; set forth in a Sermon, preached before the Right Hon. the Lord Mayor, Aldermen, and Citizens of London, at the Cathedral Church of St. Paul, on the 5th of November, 1709;" preached also by the said Dr. Henry Sacheverell; and both printed for Henry Clements; which Books were delivered in at the clerk's table; where several paragraphs in the epistle dedicatory, preceding the first mentioned Book, and also several paragraphs in the latter Book, were read:

Resolution thereon.] Sir Peter King and others having made speeches against the audaciousness of the Doctor, who had advanced positions directly opposite to Revolution principles, to the present government, and to the Protestant Succession, and consequently tending to cherish factions, and stir up rebellion: those, who favoured the Doctor's cause, were surprized at this sudden attack, and, no member offering to speak in his defence, it was resolved, "That the two Sermons were malicious, scandalous, and seditious libels, highly reflecting on the queen, the late Revolution, and the Protestant Succession, tending to alienate the affections of her majesty's subjects, and to create jealousies and divisions among them."

The Doctor was ordered to attend at the bar of the House the next day, and, being examined, owned the two Sermons. He likewise told them, what encouragement he had from the lord-mayor to print "The Perils of False Brethren." Sir Samuel Garrard, being a member of the House, was asked, whether the Sermon was printed at his desire or order? if he had owned it, he would have been expelled the House: but he denied, that ever he desired, or ordered, or encouraged, the printing thereof. Though the Doctor offered to prove it, and brought witnesses for that purpose, yet the House would not enter upon that examination, but it was thought more decent to seem to give credit to their own member, though few indeed believed him.

The Doctor standing to what he had said, without expressing the least consciousness of having done amiss, he was directed to withdraw; and it was resolved, "That he should be impeached of high crimes and misdemeanors, and Mr. Dolben was ordered to do it at the bar of the House of Lords, in the name of all the Commons of Great Britain."* At the same time, a Committee was appointed to draw up the Articles against him, and the Doctor was taken into custody of the Serjeant at Arms.

* "He was grandson of John Sacheverell, the Presbyterian minister of Wincaunton in Somersetshire, who was bred in St. John's college Oxford, and silenced soon after the Restoration. This John, being taken at a conventicle, suffered three years imprisonment, which occasioned his death. John's eldest son, father of Dr. Henry Sacheverell, was bred in King's college, Cambridge, and entertained notions very opposite to his father's principles, and died minister of St. Peter's church in Marlborough, leaving a numerous family in very low circumstances. His son Henry was put to school at Marlborough at the charge of Edward Hearst an apothecary, who, being his godfather, adopted him for his son. Hearst's widow sent him afterwards to Oxford, where he became fellow of Maudlin college. His mother, by procurement of bishop Burnet, was admitted into the hospital for distressed widows at Salisbury. He had not been long at Oxford, before he discovered his turbulent spirit. When he came to be ordained by bishop Lloyd, he was by the bishop charged with false Latin, but he confidently defended it, till the bishop sent for books to convince him. The bishop, finding him very ignorant in divinity, refused to ordain him at that time, but did it afterwards on the bishop of Oxford's recommendation, with particular marks of favour; yet he ungenerously traduced that learned prelate in a libel, called, "The Character of a Low-Churchman." Nor was he less virulent against bishop Burnet, his mother's benefactor. Being presented to a small living in Staffordshire, he fell in, both there and at Oxford, with the most furious of the High-church and Jacobite party, made scurrilous reflections on the death of king William and the Hanover Succession, and, when the queen appeared against the High-Church Memorial, he called her a waxen queen, alluding to the jest passed upon her at Oxford by those, who put her motto *semper eadem* upon a weather cock. He was proceeding in this manner, when his friends got him preferment in London." Tindal.

* "The great business of the session of parliament this winter related to Dr. Sacheverell. This affair not only took up most of their time, but, in conclusion, had also great effects. As it was one of the most extraordinary transactions of the time, it will deserve a particular notice. Dr. Sacheverell was a bold, insolent man, with a very small share of religion, virtue, learning, or good sense; but he resolved to

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Vote in favour of Mr. Hoadly.] The Commons having proceeded thus far, some members took occasion to speak in favour of Mr. Hoadly, whose principles were more agreeable to the sense of the majority of that House; and who, in several writings, had vindicated the Revolution. Upon which it was resolved, "That the rev. Mr. Benjamin Hoadly, rector of St. Peter's Poor, London, for having often justified the principles on which her majesty and the nation proceeded in the late happy Revolution, had justly merited the favour and recommendation of this House. 2. That an humble Address be presented to her majesty, that she would be graciously pleased to bestow some dignity in the church on Mr. Hoadly, for his eminent services both to the church and state." This Address having been presented to the queen, she answered, "That she would take a proper opportunity to comply with their desires:" which, however, she never did.

When Mr. Dolben carried up the Impeachment against Dr. Sacheverell, the lord Haversham made a short speech, importing, "That it seemed somewhat strange to see a divine impeached for preaching a doctrine, for which he would heretofore have been rewarded, and might, if times changed, be made a bishop. However, added his lordship, since he is impeached, I hope a day will come for the calling to account other criminals; for, which way soever I cast my eyes, I see matter for Impeachments."

Dr. Sacheverell having petitioned the Commons to admit him to bail, that he might have an opportunity of making his Defence, the Committee, who were to draw up the Articles of Impeachment, were ordered to search for precedents concerning the taking bail in case of persons committed for high crimes and misdemeanors, and Mr. Dolben reporting they could find none, it was put to the vote, whether he should be admitted to bail, and carried in the negative by a majority of 114 against 64.*

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force himself into popularity and preferment by the most petulant railings at dissenters, and low-churchmen, in several sermons and libels, penned without either chasteness of stile, or liveliness of expression, and full of indecent and scurrilous language. When he had pursued this method for several years without effect, he was at last brought up from the country by a popular election to St. Saviour's in Southwark, where he began to make great reflections on the ministry, representing, that the church was in danger, being neglected by those who governed, while they favoured her most inveterate enemies. At the summer assizes in Derby, where he preached before the judges, and this winter, on the 5th of November, at St. Paul's, he gave a full vent to his fury, in the most violent declamation, that he could contrive, upon these words of St. Paul, 'Perils 'among false brethren,' in which, after some short reflections upon popery, he let himself loose into such indecencies, that both the man and the sermon were universally condemned. He asserted the doctrine of non-resistance in the highest strain possible; and said, that to charge the Revolution with resistance, was to cast black and odious imputations on it; pretending that the late king had disowned it, and cited for proof some words in his declaration, by which he vindicated himself from a design of conquest. He poured out much scorn and scurrility on the Dissenters, and reflected severely on the Toleration; and said, the church was violently attacked by her enemies, and loosely defended by her pretended friends. He animated the people to stand up for the defence of the church, for which, he said, he sounded the trumpet, and desired them to put on the whole armour of God. After the preaching of this sermon, the lord-mayor, sir Samuel Garrard, invited the Doctor to dinner, took him in his coach, carried him to his house, gave him thanks for his good sermon, and told him, that he hoped to see it in print. The Doctor answered, 'That he was apprehensive 'he had spoken some bold truths, which might 'displease some people.' Notwithstanding which, the lord-mayor undertook to propose to the court of aldermen, that they should return the Doctor thanks for his sermon, and desire him to print it. But, though that motion was rejected by the court of aldermen, yet the Doctor, looking upon the encouragement already given him by the lord-mayor as a tacit command, ventured to publish his sermon, with a dedication to his lordship. The party, who opposed the ministry, magnified this sermon so highly, that, as was generally reckoned, about 40,000 of them were printed and dispersed over the nation. The queen seemed highly offended at it, and the ministry looked on it as an attack upon them, that was not to be despised. The lord-treasurer was so described, that it was next to the naming him. A parliamentary impeachment was resolved on; but Eyre, then solicitor-general, and others, thought the short way of burning the sermon, and keeping him in prison during the session of parliament, was the better method; but the more solemn method was unhappily chosen."

* "The Proceeding against Dr. Sacheverell occasioned great jealousies and animosities between the two parties of High Church and Low Church; the former gave it out boldly, and in all places, that a design was formed by the Whigs to pull down the Church; and that this prosecution was only set on foot to try their strength; and that, upon their success in it, they would proceed more openly. Though this was all falsehood and forgery, yet it was propagated with so much application and zeal, and the tools employed in it were so well supplied with money (from whom, was not then known) that it is scarce credible how generally it was believed.—Some things concurred to put the vulgar in an ill humour; it was a time of dearth and scarcity, so that the poor were much distressed. The coming over of the Palatines,

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In the mean time the Committee sat several times at sir Joseph Jekyll's house, in order to draw up the Articles of Impeachment; so that, the parliament being met again after Christmas, Mr. Dolben reported, that the Articles were ready, which were read paragraph by paragraph. The preamble to the Articles being read, a motion was made by the doctor's friends, that the report should be recommitted, which occasioned a very warm debate, wherein Mr. Robert Harding, Mr. Bromley, Mr. Ward, and some others, made several exceptions to the matter and form of the Articles. Mr. Harley, in particular, insisted on the leaving out the word 'seditious,' alledging a precedent in the reign of king Charles the 1st in the prosecution of Prynn, Bastwick, and Burton. But all objections were answered by Mr. Secretary Boyle, Mr. Smith, Chancellor of the Exchequer, lieut.-general Mordaunt, Mr. Lechmere, Mr. Thompson, and some others: so, the question for recommitting being put, it passed in the negative by a majority of 232 against 131; and the Articles of Impeachment were agreed to, and ordered to be carried up to the Lords. Then the last paragraph or recapitulation were also read and agreed to, and the whole ordered to be ingrossed.

Articles of Impeachment against Dr. Sacheverel.] January 12, 1710. The ingrossed Articles being read, Mr. Dolben was ordered to carry the same to the Lords; which he did accordingly, accompanied by a great number of members. The said Articles were as follow:

"ARTICLES exhibited by the Knights, Citizens, and Burgesses, in Parliament assembled, in the name of themselves and of all the Commons of Great Britain, against HENRY SACHEVERELL, Doctor in Divinity, in maintenance of their Impeachment against him, for high Crimes and Misdemeanors.

"Whereas his late majesty king William the Third, then prince of Orange, did, with an armed force, undertake a glorious enterprize, for delivering this kingdom from popery and arbitrary power; and divers subjects of this realm, well-affected to their country, joined and assisted his late majesty in the said enterprize; and it having pleased Almighty God to crown the same with success, the late happy Revolution did take effect, and was established: And whereas the said glorious enterprize is approved by several acts of parliament, and, amongst others, by an act made in the first year of the reign of king William and queen Mary, intituled, 'An Act, declaring the Rights and Liber-'ties of the Subject, and settling the Succession 'of the Crown;' and also by one other act, made in the same year, intituled, 'An Act for 'preventing vexatious suits against such as 'acted in order to the bringing in their majes-'ties, or for their service;' and also by one other act, made in the same year, intituled, 'An Act for appropriating certain duties, for 'paying the States General of the United Pro-'vinces their charges for his majesty's expedi-'tion into this kingdom, and for other uses;' and the actings of the said well-affected subjects, in aid and pursuance of the said enterprize, are also declared to have been necessary, and that the same ought to be justified: And whereas the happy and blessed consequences of the said Revolution are, the enjoyment of the light of God's true religion established among us, and of the laws and liberties of the kingdom, the uniting her majesty's Protestant subjects in interest and affection, by a legal indulgence or Toleration granted to Dissenters, the preservation of her majesty's sacred person, the many and continual benefits arising from her majesty's wise and glorious administration, and the prospect of happiness to future ages, by the settlement of the Succession of the crown in the Protestant line, and the Union of the two kingdoms: And whereas the Lords spiritual and temporal and Commons in Parliament assembled, did, by their Address, of the 17th of December in the year of our Lord 1705, lay before her majesty the following Vote, or Resolution; viz. 'That the Church of England, as 'by law established, which was rescued from the 'extremest danger by king William the 3rd, of 'glorious memory, is now, by God's blessing, 'under the happy reign of her majesty, in a 'most safe and flourishing condition; and that 'whoever goes about to suggest and insinuate 'that the church is in danger, under her ma-'jesty's administration, is an enemy to the 'queen, the church, and the kingdom;' and, by their said Address, did humbly beseech her majesty to take effectual measures for making the said Vote or Resolution public, and also for punishing the authors and spreaders of such seditious and scandalous Reports; and on the 20th day of the same December, her majesty was pleased to issue her royal Proclamation accordingly; yet, nevertheless, the said Henry Sacheverell preached a Sermon at the assizes held at Derby, August the 15th in the year of our Lord 1709, and afterwards published the same in print, with a dedication thereof: And the said Henry Sacheverell, also preached a Sermon at the cathedral church of St. Paul, before the lord-mayor, aldermen, and citizens of London, on the 5th day of November last, being the anniversary thanksgiving to Almighty God, for the deliverance from the Gunpowder Treason, and for beginning the late happy Revolution by giving his late majesty a safe arrival

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and the relieving of them, both by the queen, and by the voluntary contributions of private people, filled our poor likewise with indignation, who thought those charities, to which they had a better right, were thus intercepted by strangers. And all, who were ill-affected, studied to heighten these their resentments. The clergy generally espoused Dr. Sacheverell as their champion, who had stood in the breach, and reckoned his cause as their own. Many sermons were preached, both in London and other places, to provoke the people, in which they succeeded beyond expectation." Tindal.

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here, and for compleating the same, by making all opposition fall before him, till he became our king and governor; which said Sermon, he the said Henry Sacheverell afterwards likewise published in print, with a dedication thereof to sir Samuel Garrard, bart. lord mayor of the city of London, with a wicked, malicious, and seditious intention, to undermine and subvert her majesty's government and the Protestant Succession as by law established, to defame her majesty's administration, to asperse the memory of his late majesty, to traduce and condemn the late happy Revolution, to contradict and arraign the Resolutions of both Houses of parliament, to create jealousies and divisions among her majesty's subjects, and to incite them to sedition and rebellion.

I. "He, the said Henry Sacheverell, in his said Sermon preached at St. Paul's, doth suggest and maintain, 'That the necessary means used 'to bring about the said happy Revolution, 'were odious and unjustifiable; that his late 'majesty, in his Declaration, disclaimed the 'least imputation of resistance; and that to 'impute resistance to the said Revolution, is to 'cast black and odious colours upon his late 'majesty and the said Revolution.'

II. "He, the said Henry Sacheverell, in his said Sermon preached at St. Paul's, doth suggest and maintain, 'that the aforesaid Toleration granted by law is unreasonable, and the 'allowance of it unwarrantable;' and asserts 'that he is a false brother, with relation to 'God, religion or the church, who defends 'toleration and liberty of conscience; that 'queen Elizabeth was deluded by archbishop 'Grindall,' whom he scurrilously calls a false son of the church and a perfidious prelate, 'to 'the toleration of the Genevian discipline; 'and that it is the duty of superior pastors, to 'thunder out their ecclesiastical anathemas 'against persons entitled to the benefit of the 'said Toleration;' and insolently dares or defies any power on earth to reverse such sentences.

III. "He, the said Henry Sacheverell, in his said Sermon preached at St. Paul's, doth falsely and seditiously suggest and assert, 'that the 'church of England is in a condition of great 'peril and adversity under her majesty's ad-'ministration;' and, in order to arraign and blacken the said Vote or Resolution of both Houses of Parliament, approved by her majesty as aforesaid, he, in opposition thereto, doth suggest the church to be in danger; and, as a parallel, mentions a Vote, that the person of king Charles the 1st was voted to be out of danger, at the same time that his murderers were conspiring his death; thereby wickedly and maliciously insinuating, that the members of both Houses, who passed the said Vote, were then conspiring the ruin of the Church.

IV. "He the said Henry Sacheverell, in his said Sermons and Books, doth falsely and maliciously suggest, 'that her majesty's adminis-'tration both in ecclesiastical and civil affairs, 'tends to the destruction of the constitution; 'and that there are men of characters and 'stations, in church and state, who are false 'brethren, and do themselves weaken, under-'mine, and betray, and do encourage, and put 'it in the power of others, who are professed 'enemies, to overturn and destroy, the con-'stitution and establishment;' and chargeth her majesty, and those in authority under her, both in church and state, with a general mal-administration: and, as a public incendiary, he persuades her majesty's subjects to keep up a distinction of faction and parties, instils groundless jealousies, foments destructive divisions among them, and excites and stirs them up to arms and violence. And, that his said malicious and seditious suggestions may make the stronger impressions upon the minds of her majesty's subjects, he, the said Henry Sacheverell, doth wickedly wrest and pervert divers texts and passages of holy scripture.

"All which Crimes and Misdemeanors the Commons are ready to prove, not only by the general scope of the same Sermons or Books, but likewise by several clauses, sentences and expressions, in the said Sermons or Books contained; and that he, the said Henry Sacheverell, by preaching the Sermons and publishing the Books aforesaid, did abuse his holy function, and hath most grievously offended against the peace of her majesty, her crown and dignity, the rights and liberties of the subject, the laws and statutes of this kingdom, and the prosperity and good government of the same.—And the said Commons, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any other Article or Impeachment against the said Henry Sacheverell; and also of replying to his Answers, or any of them, and of offering proofs of all the premises or any of them, or of any other Article or Impeachment that shall be exhibited by them, as the case, according to course of parliament, shall require; do pray that he, the said Henry Sacheverell, may be put to answer to all and every the premises; and that such proceeding, examination, trial, judgment, and exemplary punishment, may be thereupon had and executed, as is agreeable to law and justice."

Jan. 25. After the exhibiting of these Articles, the serjeant at arms attending, the Commons delivered Dr. Sacheverell to the deputy-usher of the black-rod; and the Lords, having read the Articles, ordered, that a copy of them should be given to the Doctor, who was admitted to bail, Dr. Lancaster, vice-chancellor of Oxford, and Dr. Bowes being his sureties; and being now at liberty, he consulted some eminent lawyers and divines, and, with their assistance, drew up the following Answer which he delivered at the bar of the House of Lords this day:

"The ANSWER of HENRY SACHEVERELL, Doctor in Divinity, to the Articles, exhibited by the knights, citizens, and burgesses, in Parliament assembled, in the name of themselves, and of all the Commons of

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Great Britain, in maintenance of their Impeachment against him for High Crimes and Misdemeanors.

"The said Henry Sacheverell, saving to himself all advantages of exception to the said Articles, for the generality, uncertainty, and insufficiency, thereof, and of not being prejudiced by any words, or want of form, in this his Answer, admits, that, at the request of George Sacheverell, esq. high sheriff of the county of Derby, he preached a Sermon at the assizes, held for that county on the 15th day of August 1709; and, at the desire of the right hon. sir Samuel Garrard, bart. lord mayor of the city of London, he also preached a Sermon at the cathedral church of St. Paul, before the said lord mayor, and the aldermen, and citizens, of London, on the 5th of November last: and that he caused the said Sermon to be printed; but denies, that he preached, or caused, the same to be printed or published, with any such wicked, malicious or seditious, intent, as in the preamble of the said Articles is affirmed.

"The said Henry Sacheverell having been induced to print the Sermon, he preached at Derby, at the request of the gentlemen of the grand jury for that county, to whom he humbly presumed to dedicate the same, as the most public acknowledgement he was capable of making, for the peculiar honour he had received, by their public approbation of that Sermon; and the said lord mayor having been pleased to express his good liking of the said Sermon, preached at St. Paul's, the said Henry Sacheverell, at his request, caused the same to be printed, with a dedication thereof to him; and, for Answer to the said Articles, humbly saith:

Answer to the first Article.

"To the first part of the first Article, the said Henry Sacheverell denies, that in his said Sermon, preached at St. Paul's, he doth suggest and maintain, that the necessary means, used to bring about the happy Revolution, were odious, or unjustifiable; nor doth he, in any part of that Sermon, affirm any thing concerning the necessary means, used to bring about the happy Revolution. The said Henry Sacheverell is so far from reflecting on his late majesty, or the happy Revolution, that he endeavours, in that Sermon, to clear the Revolution, and his late majesty, from the black and odious colours, which their greatest enemies had endeavoured to cast upon both.

"And, as to that part of the said Article, whereby the said Henry Sacheverell is charged with suggesting, and maintaining, that his late majesty, in his Declaration, disclaimed the least imputation of resistance; the said Henry Sacheverel doth acknowledge himself to have made such suggestion; and declares, that he made it, not in dishonour, but in vindication, of his said majesty; the resistance, the said Hen. Sacheverell represents the late king to have disclaimed, being such a resistance, as tended to the conquest of this realm; as plainly appears from that part of his late majesty's Declaration, which is referred to, and verbatim set forth at the bottom of the same page, in which he mentions his late majesty's disclaiming any such imputation.

"Whether the said Henry Sacheverell was mistaken, or not, in expressing himself, as if the late king had disclaimed any imputation of resistance, when he, the said Henry Sacheverell, meant thereby, that the late king disclaimed the imputation, of a design of conquest he humbly conceives, such a suggestion, by him plainly designed for the honour of the late king, cannot, in any reasonable construction, be thought a reflection on his said majesty, or deemed any crime or misdemeanor.

"For the further justification of what the said Henry Sacheverell said, in reference to his late majesty's having disclaimed any the least imputation of resistance, the said Henry Sacheverell humbly observes, that in his late majesty's Declaration the following passages are contained: 'We have thought fit to go over to 'England, and to carry over with us a force, 'sufficient, by the blessing of God, to defend 'ourselves from the violence of evil counsel-'lors.'—'We think fit to declare, that this our 'expedition is intended for no other design, 'but to have a free and lawful parliament as-'sembled.'

"As to the last charge in the said Article, the said Henry Sacheverell denies, that he doth in his said Sermon suggest, and maintain, that to impute resistance to the said Revolution is to cast black and odious colours upon his late majesty, and the said Revolution. The persons whom the said Henry Sacheverell, in his Sermon, describes, as casting black and odious colours upon his late majesty, and the Revolution, are not those, who impute resistance to the late Revolution, of whom the said Henry Sacheverell affirms nothing, but those new preachers, and new politicians, who teach, in contradiction to both gospel, and the laws, that the people have the power vested in them, the fountain and original of it, to cancel their allegiance at their pleasure, and to call their sovereign to account for high treason against his subjects, nay, and to dethrone, and murder him for a criminal, as they did the royal martyr, by a judiciary sentence; who are maintainers of antimonarchial schemes, and of such damnable positions, as are by the laws of the church and state condemned for rebellion and high treason; and who urge the Revolution in defence of such principles: unless therefore those who impute resistance to the Revolution, be the same with those new preachers, and new politicians, above specified, the said Henry Sacheverell affirms nothing concerning them.

"The said Henry Sacheverell, upon the strictest search into his said Sermon, preached at St. Paul's, doth not find, that he hath given any the least colourable pretence for the accusation, exhibited against him in this first Article, but barely by his asserting the utter illegality of resistance to the supreme power, upon any pretence whatsoever; for which assertion, he

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humbly conceives, he hath the authority of the Church of England, which in divers passages of her homilies, too large, and too numerous, to be here specified, but by the said Henry Sacheverell ready to be produced, hath taught and inculcated this doctrine, as founded on the word of God; particularly in the second part of the Sermon of Obedience, contained in the former book of Homilies, set forth in the time of king Edward the sixth; where are these words: 'Here, good people, let us all mark diligently: 'it is not lawful for inferiors, and subjects, in 'any case to resist and stand against the su- 'perior powers: for St. Paul's words be plain, 'that whosoever withstandeth, shall get to 'themselves damnation: for whosoever with- 'standeth, withstandeth the ordinance of God.'

"Which said Book of Homilies is affirmed, in one of the Thirty-nine Articles of Religion which concern the Confession of the true Christian Faith, to contain a godly and wholesome doctrine, and is ordered 'to be read in churches 'by the ministers diligently and distinctly, that 'they may be understood of the people.' And the said Henry Sacheverell, in further maintenance of the said doctrine and position contained in the Books of Homilies, and of the authority of those books, saith, that, by an act of parliament made in the thirteenth year of the reign of queen Elizabeth, intituled, 'An 'Act for the Ministers of the Church to be of 'sound Religion,' it is enacted, 'That no per- 'son should thereafter be admitted to any bene- 'fice with cure, except he should first have 'subscribed the said Articles, in the presence 'of the ordinary, and publicly read the same 'in the parish church of that benefice, with 'declaration of his unfeigned assent to the 'same.' And that, by an act made in 5th year of her present majesty's reign, intituled, 'An Act for securing the Church of England 'as by law established,' it was enacted, 'That 'the said act made in the 13th year of the 'reign of queen Elizabeth should remain and 'be in full force for ever, and be inserted in 'express terms in any act which should be made 'for ratifying the Union of the two kingdoms 'of England and Scotland, and therein declared 'to be an essential and fundamental part there- 'of.' And the said act was accordingly inserted, in express terms, in an Act for the Union of the two kingdoms, and thereby ratified, and declared to be an essential and fundamental part thereof.

"And the said Henry Sacheverell doth further humbly insist, and is advised, that the aforesaid assertion is agreeable to, and warranted by, the common law of England, and divers acts of parliament now remaining in full force.

"The said Henry Sacheverell doth, with all humility, aver the illegality of resistance, on any pretence whatsoever, to be the doctrine of the Church of England, and to have been the general opinion of our most orthodox and able divines, from the time of the Reformation to this day. This doctrine hath, in the most solemn manner, been taught in that university whereof he hath been for more than 20 years a member. This hath been often, with public approbation of each House of Parliament, preached and printed; and, in terms of greater force than any used by the said Henry Sacheverell, hath, by the right reverend fathers of our Church, dead and living, been avowed and maintained.

"And the said Henry Sacheverell was the rather induced to preach against the doctrine of resistance of the Supreme Power, upon the 5th day of November; because on that day the Church commemorates our deliverance from the traitorous attempts of rebellious Papists, and because the lawfulness of resisting the Supreme Power was originally a Popish doctrine; for which reasons, as he humbly conceives, the rubric of the office appointed for that day by her late majesty queen Mary (of blessed memory) directs, that, 'after the Creed, 'if there be no sermon, shall be read one of 'the six Homilies against Rebellion.'

"Whilst therefore the Church of England, as by law established, is in a safe and flourishing condition, under her majesty's happy administration; whilst Popish tenets are by all good Protestants condemned and abhorred; whilst the laws of this realm continue in their full force and vigour; the said Henry Sacheverell humbly hopes, that a dutiful son of that Church, a sincere Protestant, and a faithful subject of her majesty, shall not suffer, for asserting the doctrine of non-resistance of the Supreme Powers: But if this doctrine be declared erroneous, and it should please God that he should suffer for asserting it, he trusts that God will enable him to shew his steady belief of this doctrine, by a meek and patient resignation to whatever shall befall him on that account.

Answer to the Second Article.

"To that part of the second Article, which charges, 'that he, the said Henry Sacheverell, 'doth suggest and maintain, that the Toleration 'granted by law is unreasonable, and the al- 'lowance of it unwarrantable;' the said Henry Sacheverell saith, That, upon the most diligent inquiry, he has not been able to inform himself that a Toleration hath been granted by law; but admits, that an act did pass in the 1st year of king William and queen Mary, intituled, 'An 'Act for exempting their majesties Protestant 'subjects, dissenting from the Church of Eng- 'land, from the penalties of certain laws;' which exemption the said Henry Sacheverell doth not any where maintain or suggest to be unreasonable, or that the allowance of it is unwarrantable; but hoped that he had prevented any such misapprehension, by declaring his sincere meaning in these words, contained in his Sermon preached at St. Paul's: 'I would 'not be here misunderstood, as if I intended 'to cast the least invidious reflection upon that 'indulgence which the government hath con- 'descended to give them, which, I am sure, all 'those, who wish well to our Church, are ready 'to grant to consciences truly scrupulous:

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'Let them enjoy it in the full limits the law 'has prescribed.'

"If there be any other expressions concerning toleration, which may seem to carry a dubious sense, in any other parts of his Sermon; he hopes that they will not be applied to the exemption granted by law, but will be interpreted agreeable to this avowed approbation of that law.

"And to such part of the said second Article as charges, 'that he the said Henry Sacheve-'rell asserts, That he is a false brother, with 'relation to God, Religion, or the Church, who 'defends toleration and liberty of conscience;' he, the said Henry Sacheverell, saith, 'That 'he, having so plainly declared himself in favour 'of the exemption granted by law, when he 'blames those who, upon all occasions, defend 'toleration and liberty of conscience, cannot 'be thought to reflect on the defenders of that 'legal exemption or indulgence which he him-'self approves and defends: He doth indeed 'suggest it to be one part of the character of a 'false brother, upon all occasions, to defend 'toleration and liberty of conscience; and, to 'excuse the separation, lay the fault upon the 'true sons of the Church, for carrying matters 'too high.' Which universal defence of toleration, and excuse of separation, attended with the laying the fault of such separation upon the true sons of the Church, are by him jointly mentioned in one and the same clause of the sentence, and in one and the same branch of the character; so that this reflection doth not extend to all who defend toleration and liberty of conscience, much less to those who defend the exemption granted by law to Protestant dissenters; but to such only, who, at the same time they defend universal toleration and liberty of conscience, do also excuse the separation, and lay the fault thereof upon the true sons of the Church, for carrying matters too high; and these he did then, and still doth, with all humility, conceive to be justly blameable; and, if members of this Church, to be false brethren.

"And as to that part of the second Article, whereby the said Henry Sacheverell is charged with asserting 'That queen Elizabeth was de-'luded by archbishop Grindall to the tolera-'tion of the Genevian discipline;' he, the said Henry Sacheverell, saith, he humbly conceives, he hath good authority, from the histories and monuments of those times, for such assertion. But, whether he hath, or hath not, he humbly apprehends such assertion to be no proof of his maintaining, or suggesting, that the exemption of Protestant subjects, dissenting from the church of England, from the penalties of certain laws, granted by an act made in the first year of the reign of king William and queen Mary (which exemption he supposes to be intended by the legal indulgence or Toleration granted to dissenters, mentioned in the preamble of the Articles, and by the toleration granted by law, mentioned in this second Article) is unreasonable, or the allowance of it unwarrantable; for he is humbly of opinion, that there is a wide and manifest difference between a toleration of the Genevian discipline, and an exemption of Protestant dissenters from the penalties of certain laws; between a toleration allowed merely by the regal power, and an exemption granted by act of parliament; which exemption he is so far from thinking unreasonable or unwarrantable, that, from the bottom of his heart, he wisheth it, under the same restrictions and limitations, extended to all her majesty's Protestant subjects throughout the whole kingdom of Great Britain.

"And as to such part of the second Article, whereby the said Henry Sacheverell is charged with 'scurrilously calling the said archbishop 'Grindall a false son of the church, and a per-'fidious prelate;' the said Henry Sacheverell humbly hopes, that any harsh expressions he hath used, concerning that prelate, may be rather excused; because the said archbishop, having permitted innovations to be obtruded on the church, did thereby incur the high displeasure of so good and pious a princess as queen Elizabeth, by whose order he was suspended, and continued under such suspension to the day of his death. However, the said Henry Sacheverell presumes, that no words spoken of an archbishop, above 120 years since deceased, will, in construction of law, amount to an high crime and misdemeanor.

"And as to such part of the second Article, whereby the said Henry Sacheverell is charged with maintaining, 'That it is the duty of superior pastors, to thunder out their ecclesiastical anathemas against persons entitled to the benefit of the said Toleration;' he, the said Henry Sacheverell, saith, 'That he doth not 'maintain, or suggest, that it is the duty of su-'perior pastors to thunder out ecclesiastical 'anathemas against persons entitled to the be-'nefit of the Toleration;' which persons, where he speaks of such anathemas, are neither by him mentioned nor intended. But if the expressions, by him unapplied to any, must be determined to any one sort of persons, he humbly conceives, that the connection of his discourse will determine them to those schismatical and factious persons, who take permission for power, and advance toleration immediately into an establishment; and such schismatical and factious persons, he humbly apprehends, are not the persons entitled to the benefit of the act of exemption, which was designed only to give some ease to scrupulous consciences, in the exercise of their religion.

"And as to the last part of the second Article, whereby the said Henry Sacheverell is charged with insolently daring or defying any power on earth to reverse such sentences; the said Henry Sacheverell saith, that the sentence, which he, the said Henry Sacheverell, dares any power on earth to reverse, is such, and such only, as is ratified in heaven; and such sentence he still affirms to be by any earthly power irreversible, and hopes, it will not be thought insolence in him to affirm, what, he conceives, would be blasphemy in any one

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to deny: and doth further acknowledge himself firmly to believe, that some sentences, pronounced by the pastors of the church, are ratified in heaven; and that some persons, exempted from punishment by the particular laws of the land, may yet, by the laws of Christ, be justly liable to such sentences; and that schism, or a causeless separation from a church, imposing no sinful terms of communion, is a sin, which exposes the persons, guilty thereof, to the censures of the church.

Answer to the Third Article.

"And as to so much of the third Article, as charges the said Henry Sacheverell, that he doth falsely and seditiously suggest, and assert, that the church of England is in a condition of great peril and adversity under her majesty's administration; and that, in order to arraign and blacken the said Vote and Resolution of both Houses of parliament, approved by her majesty, he, in opposition thereto, doth suggest the church to be in danger; the said Henry Sacheverell denies, that he hath either asserted, or suggested, the church of England to be in a condition of great peril and adversity under her majesty's administration; but he doth freely acknowledge, that he hath in his Sermon suggested, that, when national sins are ripened up to a full maturity, to call down vengeance from providence on a church, and kingdom, debauched in principles, and corrupted in manners, and, instead of the true faith, discipline, and worship, given over to all licentiousness, both in opinion and practice, to all sensuality, hypocrisy, lewdness, and atheism, then we (that is, evidently, all the members of such a church, or kingdom) are in danger in such deplorable circumstances: and this suggestion of danger, arising to a church, and kingdom, from vice and infidelity, he humbly presumes, is not opposite to the Vote of the two Houses, or seditious, but intirely agreeable to what is solemnly declared in an act of parliament, made the 9th and 10th of his late majesty king William the 3d, for the more effectual suppressing of blasphemy and profaneness; wherein it is affirmed, that many persons had of late years openly avowed, and published, many blasphemous and impious opinions, contrary to the doctrines and principles of the Christian religion, greatly tending to the dishonour of Almighty God, which might prove destructive to the peace and welfare of this kingdom: and he conceives, that, since the passing that act, the detestable crimes (for the effectual suppressing of which that act was intended) have greatly increased. And the said Henry Sacheverell saith, the suggestions, by him made, of dangers arising to us from vice and infidelity, he apprehends to be in no-wise more seditious, or repugnant to the Vote of the two Houses, approved by her majesty, than the like suggestions, occurring in the solemn prayers of the church, authorized by her majesty, and frequently used before each House of parliament; wherein we beseech God, that no sedition may disturb this state, nor schism distract this church; and that he would give us grace, seriously to lay to heart the great dangers we are in by our unhappy divisions.

"And as to so much of the said third Article, whereby it is charged, that the said Henry Sacheverell, as a parallel, mentions a vote, that the person of king Charles the first was voted to be out of danger, at the same time, that his murderers were conspiring his death, thereby wickedly and maliciously insinuating, that the members of both Houses, who passed the said Vote, were then conspiring the ruin of the church; he, the said Henry Sacheverell, doth say, that he doth not draw any parallel between the Vote concerning the king's person, and the late Vote of the two Houses, which he neither there, nor elsewhere, in his Sermon mentions: But had he suggested one Vote to be parallel to the other (which he hath not) yet would he not have thereby wickedly and maliciously insinuated, that the members of both Houses, who passed the late Vote, were then conspiring the ruin of the church; but would only have intimated, that, as some persons were conspiring the murder of the king, whilst others, noways privy to their wicked intentions, voted his person to be out of danger; so, when the two Houses voted the church of England to be in no danger, under her majesty's administration, there might be some others, who were conspiring the ruin of the church, and many others, who, by their vice, and infidelity, were drawing down God's vengeance both on church and kingdom.

"As the Vote of both Houses, made four years ago, did concern those only, who did then insinuate, the church of England to be in danger, under her majesty's administration; so it cannot, he presumes, affect those, who do now suggest, the Christian faith, which is the foundation, upon which every Christian church stands, to be endangered by those atheistical and irreligious principles, which are daily from the press propagated amongst us, notwithstanding the provision, made by the said act, for suppressing blasphemy and prophaneness; So that the said Henry Sacheverell thinks, that he might with truth affirm, as he did in his Sermon, preached at Derby, that there were never such outrageous blasphemies against God, and all religion, natural, as well as revealed, vented publicly, with impunity, in any Christian church, or kingdom, in the whole world, as at present in our own; of which assertion the said Henry Sacheverell is ready to produce undeniable and ample proofs, if called thereto.

Answer to the Fourth Article.

"As to the 4th Article; it contains several charges of a very high and criminal nature, of which the said Henry Sacheverell knows his heart to be intirely innocent; and he observes, with comfort, that, whereas in the former three Articles he is said to have maintained or asserted, as well as to have suggested, the doctrines and things therein laid to his charge; in this fourth Article, he is not accused of maintaining,

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or asserting, but barely of suggesting, what is therein contained; And he humbly hopes, that bare suggestions or insinuations, could they with any colour of probability be made out, as he is fully satisfied they cannot, will not, under the most mild and gracious government (at a time when several new laws have been made for securing the liberties of the subject), by your lordships, the great guardians of our laws and liberties, be adjudged sufficient to involve an English subject in the guilt and punishment of high crimes and misdemeanors.

"To the several parts of the said fourth Article, the said Henry Sacheverell doth, in all humility, answer; as to such part thereof, whereby it is charged, 'that the said Henry 'Sacheverell, in his said Sermons and Books, 'doth falsely and maliciously suggest, That her 'majesty's administration, both in ecclesiastical 'and civil affairs, tends to the destruction of 'the constitution;' he, the said Henry Sacheverell, saith, 'That he hath not made any men-'tion, in either of his Books or Sermons, of her 'majesty's administration in ecclesiastical or 'civil affairs, or of her ministers. So far is he 'from suggesting, that her majesty's adminis-'tration, both in ecclesiastical and civil affairs, 'tends to the destruction of the constitution; 'that, amongst the inestimable blessings which 'are owing to our deliverance annually com-'memorated on the 5th of November, he 'reckons this to be one, 'That her majesty, 'the good and pious relict of the royal family, 'sits now happily upon the throne of her an-'cestors: and prays, that God may long pre-'serve her, for the comfort and support of the 'church;' and professeth, that what he spoke, proceeded from a tender concern for her majesty's person and government; And in the dedication also of his said Sermon, preached at St. Paul's, solemnly declares, as he did before in his discourse, 'That his only aim and inten-'tion was, earnestly to contend for the safety, 'rights, and establishment of her majesty, to-'gether with those of the church.'

"And as to such part of the said Fourth Article, whereby it is charged, 'that the said 'Henry Sacheverell doth suggest, That there 'are men of characters and stations in the 'church, who are false brethren;' the said Henry Sacheverell saith, That the false brethren, as described by him in his Sermon, are either those who propagate false doctrines; or who give up the discipline and worship of the church; or who are for a neutrality in religion; or who wish well to the Church of England, and are ready to sacrifice their persons and estates in her vindication, but do not shew their zeal in the Communion of the Church, as well as for it, in obeying her precepts, as well as defending her rights. These being the several sorts of false brethren enumerated by the said Henry Sacheverell; if he should have suggested, that there are men of characters and stations in Church and State (words by no means restrained to the highest characters and stations), to whom the denomination of false brethren, in some one or more senses of that word as by him interpreted, doth belong, he humbly hopes that such suggestion would not be deemed false, malicious, or highly criminal.

"And as to such other part of the said Fourth Article, whereby it is charged, 'that 'the said Henry Sacheverell doth suggest, 'That there are men of characters and stations 'in the Church and State, who do themselves 'weaken, and undermine, and betray, and do 'encourage, and put it into the power of others, 'who are professed enemies, to overturn and 'destroy the constitution and establishment;' the said Henry Sacheverell denieth that he suggesteth any such things concerning men of characters and stations in Church or State, where he speaks of those, 'who weaken, un-'dermine, and betray, and encourage, and put 'it in the power of our professed enemies, to 'overturn and destroy the constitution and es-'tablishment.' There men of characters and stations are not mentioned by him; and where he mentions men of character and stations, twelve pages afterwards, the only place where-in he mentions them, there he speaks nothing of weakening, undermining, and betraying, or of encouraging and putting it in the power of our professed enemies, to overturn and destroy the constitution and establishment; and hopes, therefore, that he shall be no ways answerable for a supposed reflection, which depends upo the conjunction of passages so widely distant from, and so little relating to, each other.

"The weakeners, underminers, and betrayers of our constitution, and the encouragers, to whom the said Henry Sacheverell doth in any part of his Sermon refer, will, he presumes, upon a candid examination, of those passages, appear to be one of these three sorts of persons; either, first, such as, by their writings, endeavour to subvert the foundations of our Church and State; or, secondly, such, whether writers or others, who are for a latitudinarian, heterogeneous mixture of all persons, of what different faith soever, uniting only in protestantcy; which would let into her bowels those, who neither believe her faith, own her mission, submit to her discipline, or comply with her liturgy, which he afterwards styles the model of an universal coalition; or, thirdly, those occasional conformists, who have so far eluded the Corporation and Test-Acts, by their abominable hypocrisy, as to have undermined the foundations, and endangered the government, by filling it (as far as they could) with its professed enemies, that is, with themselves. Of all these and their encouragers, the said Henry Sacheverell confesses himself to have suggested, that they do, in his opinion, weaken, undermine, and betray the constitution. But that either these, or their encouragers, are men of characters or stations in the Church or State, he hath not any where suggested.

"And as to such other part of the said Fourth Article, which chargeth the said Henry Sacheverell, 'with charging her majesty, and 'those in authority under her, both in Church

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'and State, with a general mal-administration;' the said Henry Sacheverell saith, 'That he 'abhors the thoughts of bringing any charge 'against her sacred majesty, whom he never 'mentions but in terms of the profoundest duty 'and respect; nor doth he tax those in authority 'with a general or with any mal-administration, 'which is a word he hath never used, nor, as far 'as he can find, any other word or words by 'which the thing is implied.' So far is the said Henry Sacheverell from making any undutiful reflections upon her majesty, or her administration, that, in the several writings that he has published since her happy accession to the throne, particularly in one which is an avowed defence of her title to the crown, and a justification of her entering into a war with France and Spain, he hath expressed himself with the most hearty and loyal zeal for her majesty's person, government, and administration.

"As to such other part of the said Fourth Article, whereby it is charged, 'That the said 'Henry Sacheverell, as a public incendiary, per-'suades her majesty's subjects to keep up a dis-'tinction of factions and parties;' the said Henry Sacheverell saith, That he is so far from being guilty of this charge, that, in his said Sermon, he invites the separatists to renounce their schism, and come sincerely into the Church; and complains of those who have villainously divided us with the knavish distinctions of High and Low Church-men, and 'wishes 'we might be one fold, under one shepherd, and 'that all those invidious distinctions, that now 'distract and confound us, were lost; so that 'we might be terrible, like an army with ban-'ners, to our enemies, who could never break in 'upon such an uniform and well compacted 'body.'

"And as to such other part of the said Fourth Article, as charges, 'That the said 'Henry Sacheverell instils groundless jealousies, 'and foments destructive divisions, among her 'majesty's subjects;' the said Henry Sacheverell saith, that in his said Sermon he, on the contrary, rebukes and condemns those, who by false insinuations, and raising groundless jealousies and fears, embroil the public, and bring it into confusion.

"And as to such other part of the said Fourth Article, whereby it is charged, 'that the said 'Henry Sacheverell excites and stirs up her ma-'jesty's subjects to arms and violence;' the said Henry Sacheverell saith, God forbid, that he should be guilty of so heinous a crime, who asserts the utter illegality of resistance to the supreme power, upon any pretence whatsoever! Which assertion he conceives to be the chief, if not only, ground of the charge, exhibited against him in the First Article.

"In confutation of this charge, he begs leave to recite one passage out of his Sermon preached at Derby, in the following words: 'We 'may be partakers of other men's sins, if we 'do not, to the uttermost of our power, endea-'vour to prevent, or obstruct, their commission, 'when they manifestly endanger the good of the 'public. As we are members of any govern-'ment, or society, we are all obliged in point of 'honour, interest, and conscience, to maintain 'its security, promote its welfare, and guard it 'against factious designs, or seditious conspira-'cies, that may threaten its constitution, dis-'compose its peace, or violate and subvert its 'laws. God and nature have invested every 'subject, from his cradle, with a commission to 'engage, discover, and disappoint, the enemies 'of his church, and country; and he, that is 'either privy to, industriously conceals, or any 'way abets, their schismatical, illegal, or re-'bellious, enterprizes, both in the eyes of human, 'as well as divine, laws, is an accomplice and 'partaker of the guilt, a traitor to God, and his 'prince, a patron and protector of injustice, and 'a common adversary to himself, as well as all 'mankind.'

"And the said Henry Sacheverell hopes, what he hath said in the dedication of the same Sermon, 'That there are not wanting some to 'preach the truth, and others to support it, at 'the expence of their lives and fortunes,' will not be construed as exciting her majesty's subjects to sedition and rebellion; since that truth, which he commends some for preaching, and others for supporting, is by him opposed to the attempts of those, who betray, and run down, the principles and interest of our church, and constitution; and since he there deservedly commends the high sheriff, of that county, on the account of his steady loyalty, and zeal to serve her majesty and the government, for which he hath been so remarkably distinguished.

"In the Sermon, preached at St. Paul's, he doth indeed excite Christians to put on the whole armour of God, as wrestling not only against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places; but he hath learned from the same St. Paul, that the arms of resistance, taken up by subjects against the higher powers, are no part of that spiritual armour; and principalities and powers, by him mentioned, being plainly distinguished from flesh and blood, cannot, he thinks, be so far misinterpreted, as to be understood of earthly potentates and rulers.

"And as to so much of the said Fourth Article, whereby it is charged, that he, the said Henry Sacheverell, doth wickedly wrest and pervert divers texts and passages of holy scripture, that his said malicious and seditious suggestions may take the stronger impression upon the minds of her majesty's subjects; the said Henry Sacheverell says, that, having no malicious or seditious suggestions to imprint, he could not intend to wrest any passages of the holy scripture to that wicked purpose. Hard is the lot of the ministers of the gospel, if when they cite the word of God, in their general exhortations to piety and virtue, or in their reproofs of men's transgressions, or where they are lamenting the difficulties and conflicts, with which the church of Christ, whilst militant here on earth, must always struggle, the se-

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veral texts and passages, by them cited, shall be said to have been by them meant of particular persons and things, and shall be construed in the most criminal sense, and be made, by such construction, one ground of an Impeachment for high crimes and misdemeanors.

"And as to all other matters and things in the said Articles contained, and not herein before particularly answered unto, the said Henry Sacheverell saith he is not guilty of them, or any of them, in manner and form, as the same are charged upon him in and by the said Articles; and humbly submits himself to your lordships' judgment.

HENRY SACHEVERELL."

*Short Account of the Trial in Westminster-hall.**] This Answer being sent from the Lords to the Commons, and referred to the committee, Mr. Dolben, in a few days, reported, That it was in many things foreign to the charge, unbecoming a person impeached, and plainly designed to reflect upon the honour of the House. A Replication being ordered to be drawn, a debate arose at the second reading, wherein the Doctor's friends insinuated, "That it was advisable to leave the offender to the ordinary course of justice." But this was rejected by a great majority; and the Replication sent up to the Lords, averring their charge, and declaring they would be ready to prove it, at such convenient time as should be appointed for that purpose.

The Lords appointed the 9th of March for the Trial at the bar of their House: and the Commons ordered, that the committee, who had drawn up the Articles, should be the managers to make good the Impeachment. These were sir John Holland, comptroller of her majesty's houshold; Mr. Secretary Boyle; Mr. Smith, chancellor of the exchequer; sir James Mountague, attorney-general; Mr. Robert Eyre, solicitor-general; Mr. Robert Walpole, treasurer of the navy: sir Joseph Jekyll; Mr. Lechmere; Mr. Dolben; sir Thomas Parker; sir Peter King, recorder of the city of London; sir John Holles; lord William Pawlet; lord Coningsby; Mr. Spencer Compton; Mr. William Thompson; lieutenant-general Stanhope; lieutenant-general Mordaunt; Mr. Spencer Cowper; sir David Dalrymple. Then it was debated, whether the House should attend in a body, or in a committee of the whole House; and it was carried for a committee by a majority of 192 against 180. This was done by the Doctor's friends, who found, that, by gaining more time, the people were still more inflamed; and therefore it was they moved, that the Trial might be public in Westminster-hall, where the whole House of Commons might be present. Accordingly, upon the Commons' request, which was brought up by Mr. Bromley, one of the Doctor's chief friends, the Lords addressed the queen for a place to be prepared in Westminster-hall for the Trial.

At length, the Lords sent a message to the Commons to acquaint them, they had appointed the 27th of February for the Trial. On that day (all things being prepared) the Lords, in their formalities, went down to the court in Westminster-hall, where vast numbers of spectators had been admitted. The managers of the Commons, and the committee of the whole house having taken their respective places, and Dr. Sacheverell, who was lodged in the Temple, and came every day with great solemnity in a coach to the Hall, being brought to the bar, the Trial began, and lasted three weeks; in which all other business was at a stand, for this took up all men's thoughts. The queen herself was present every day of the Trial in a private manner. The managers for the Commons opened the matter very solemnly. Their performances were very much and justly commended. Sir Joseph Jekyll, Mr. solicitor-general Eyre, lieutenant-general Stanhope, sir Peter King, but above all, sir Thomas Parker, distinguished themselves in a very particular manner. When his counsel, sir Simon Harcourt, Mr. Dodd, Mr. Phipps, Mr. Dee, and Dr. Henchman, came to plead for him, they very freely acknowledged the lawfulness of resistance in extreme cases, and plainly justified the Revolution and our deliverance by king William. But they said, it was not fit in a Sermon to name such an exception. That the duties of morality ought to be delivered in their full extent, without supposing an extraordinary case. And therefore the Doctor had followed precedents set by our greatest divines, ever since the Reformation, and ever since the Revolution. Upon this they opened a great field; they began with the declarations made in king Henry the 8th's time; they insisted next upon the Homilies; and from thence instanced, in a large series of bishops and divines, who had preached the duty of submission and non-resistance in very full terms, without supposing any exception; some excluding all exceptions in as positive a manner as the Doctor had done. They explained the word Revolution, as belonging to the new settlement upon king James's withdrawing; though, in the common acceptation, it was understood of the whole transaction, from the landing of the Dutch army, till the settlement made by the Convention. So that, they understanding the Revolution in that sense, there was indeed no resistance there. That if the passage quoted from the declaration of king William, while he was prince of Orange, did not come up to that, for which the Doctor quoted it, he ought not to be censured, because his quotation did not fully prove his point. As for his invective against the dissenters and toleration, they laboured to turn that off, by saying, that he did not reflect on what was allowed by law, but on the permission of, or the not punishing many, who published impious and blasphemous books.

* Burnet—Tindal—Boyer. For the Trial at large, see the State Trials.

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And a collection was made of passages in books, full of crude impiety and bold opinions. This gave great offence to many, who thought that this was a solemn publishing of so much impiety to the nation, by which more mischief would be done than by the books themselves: for most of them had been neglected, and known only to a small number of those who encouraged them; and the authors of many of those books had been prosecuted and punished for them. As to those parts of the Sermon, which set out the danger the church was in, though both Houses had some years ago voted it a great offence to say it was in danger; the Doctor's counsel said it might have been in none four years ago, when these votes passed, and yet be now in danger; the greatest of all dangers was to be apprehended from the wrath of God for such impieties. They said, the reflections on the administration were not meant of those employed immediately by the queen, but of men in inferior posts. If the Doctor's words seemed capable of a bad sense, they were also capable of a more innocent one; and every man was allowed to put any construction on his words, that they could bear.

When the Doctor's counsel had ended their Defence, he concluded it himself with a speech, which he read with much bold heat; in which, with many solemn asseverations, he justified his intentions towards the queen and her government. He spoke with respect both of the Revolution and the Protestant Succession. He insisted most on condemning all resistance under any pretence whatsoever, without mentioning the exception of extreme necessity, as his counsel had done. He said, it was a doctrine of the church, in which he was educated; and added many pathetical expressions, to move the audience to compassion. This had a great effect on the weaker sort, while it possessed those, who knew the man and his ordinary discourses, with horror, when they heard him affirm so many falsehoods with such solemn appeals to God. It was very plain, that the speech was made for him by others, for the style was more correct, and far different from his own; and it was thought to be the joint work of Dr. Atterbury, Dr. Smalridge, and Dr. Friend, supervised and corrected by sir Simon Harcourt and Mr. Phipps.

During the Trial, the multitudes that followed him all the way as he came, and as he went back, shewed a great concern for him, pressing about him, and striving to kiss his hand. And when the queen went, in the afternoon of the day on which the Trial began, to the House of Lords, to give the royal assent to some bills, a great multitude of people gathered about her sedan, crying out, 'God bless your majesty 'and the church: we hope your majesty is for 'Dr. Sacheverell.' The next day the mob was still more numerous and louder about Dr. Sacheverell's coach, and obliged all persons they met to pull off their hats to him, and abused those who refused to comply; among whom were some members of both Houses of Parliament. The same evening the rioters went to Mr. Daniel Burgess's meeting-house, in a court near Lincoln's-inn-fields, of which they broke the windows, and committed several other outrages and disorders. Their fury increasing with their numbers, they advanced to greater enormities, and even to overt-acts of rebellion. For, after they had attended upon Dr. Sacheverell as usual, they repaired to that meeting-house again, broke it open, pulled down the pulpit, pews, benches, in short, all that was combustible; and having carried these materials into Lincoln's-inn-fields, made a bonfire of them, with repeated cries of High Church and Sacheverell. About the same time, other parties of the mob demolished and destroyed several other meeting-houses. They also battered and plundered the houses of several dissenters; threatened to pull down the houses of the Lord Chancellor, earl of Wharton, bishop of Sarum, Mr. Dolben, and other managers for the Commons against Dr. Sacheverell; and talked of destroying Mr. Hoadly's church and house, Salters-hall, Mr. Shower's, and other meeting-houses in the city; and even of attacking the Bank of England, of which the directors being apprehensive, they took the necessary precautions for its security, and sent to Whitehall for assistance. These disorders were directed by some of better fashion, who followed the mob in hackney-coaches, and were seen sending messages to them. Upon the first notice of these tumults, the earl of Sunderland made his report to the queen, who commanded him to send her horse and foot-guards to disperse the mob; and the earl representing the danger of leaving her person unguarded at that time (it being between ten and eleven o'clock at night) she answered, 'God would be her 'guard.' The earl being returned to his office at the Cockpit, where were also the Lord Chancellor, the duke of Newcastle, and some other noblemen, he sent for captain Horsey, an exempt, who then commanded the guard, and ordered him to mount immediately, and disperse the mob. And as the captain was going out, the earl whispered him, and bid him send a party to the Bank. Before the horse and foot guards could reach Lincoln's-inn-fields, the officers had notice, that the mob which had gathered there, was returned to Drury-lane, where they were making another bonfire with the furniture of Mr. Earle's meeting-house; whereupon the guards bent their march that way. At their approach most of the mob fled before them; and only one of their ring-leaders, George Purchase, a bailiff (who had before been a life-guard-man, but was dismissed for some misdemeanor) offered to make a stand, with a few of the most resolute of his followers, crying out for High Church and Dr. Sacheverell. From Drury-lane the guards marched towards the city, and met with some opposition near Fleet-ditch, from the mob that were rifling the meeting-house in Black-Friars; but having wounded some of the most daring, and secured others, the rest were soon scattered; and the

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guards, patrolling all night, prevented any farther mischief. On the 2nd of March, the horse and foot-guards at Whitehall and St. James's were doubled: and the trained-bands at Westminster under arms, in divers posts, where they continued as long as Dr. Sacheverell's Trial was depending: which both lessened the number of the mutineers (many of the trained-band being men of low circumstances, hired by substantial housekeepers) and kept the rest in awe. The same day, the Commons resolved to address the queen, to take effectual measures to suppress the present tumults, set on foot and fomented by papists, nonjurors, and other enemies to her title and government; and to issue out a proclamation, promising a reward to such as should discover and seize those incendiaries, who had been the occasions of the late tumults and disorders. To this Address the queen answered, "That she was extremely sensible of the great care and concern of the House of Commons for the public peace upon this occasion; and, as she had a just resentment at these tumultuous and violent proceedings, so she would take immediate care for suppressing them, and would lose no time in endeavouring to find out the authors and abettors, in order to bring them to punishment, according to the desire of this House." The Commons, upon this Answer, unanimously resolved to present an Address, importing, "That they begged leave to return their most hearty thanks for her most gracious Answer to their Address, and for her effectual care in suppressing those rebellious tumults, which were set on foot and fomented by papists, nonjurors, and other enemies to her title and government, in defiance of the just prosecution of the Commons against Dr. H. Sacheverell. And they humbly besought her to believe, that as this prosecution proceeded only from the indispensable obligation which her faithful Commons looked upon themselves to lie under, not to sit still, and patiently see the justice of the late happy Revolution, and the glory of their late royal deliverer reflected upon; her majesty's undoubted title struck at; her administration, by which so many blessings were derived upon them, endeavoured to be rendered odious to the people, and represented as destructive of the church and constitution; the present establishment and Protestant Succession undermined; the resolutions of the parliament treated with contempt; the governors of the church, and her majesty as supreme, aspersed and vilified; the Toleration exposed, as wicked; and sedition insolently invading the pulpit: so the maintenance of her majesty's right, the safety of her person, the quiet of her government, the continuance of their happiness under her excellent administration, the succession in the Protestant line, the support and honour of the church of England, as established by law, with that Toleration which was by act of parliament allowed to Protestant dissenters, should be their constant care and concern. And they would, upon all occasions, venture all that was dear to them, in defence of such inestimable blessings." It was moved, that in the first paragraph it might be suggested, that the 'rebellious tumults were set on foot and fomented by republicans, as well as by papists 'and nonjurors:' but the motion was rejected.

The day before this Address was presented, a proclamation was published for suppressing the tumults, pursuant to which several persons, who had been active in the late riots, were apprehended, and committed to divers prisons; particularly, George Purchase the bailiff; Daniel Damaree, one of the queen's watermen; and Francis Willis, a footman; which three were some time after tried for high-treason: but, though the two first were sentenced to die, yet neither of them suffered. The remissness, in punishing so great a disorder, was looked on as the preparing and encouraging men to new tumults; and there was a secret management in the whole affair, that amazed all people.

When Dr. Sacheverell had ended his Defence, the managers for the House of Commons replied, and shewed very evidently, that the words of his Sermon could not reasonably bear any other sense but that for which they charged him. This was an easy performance, and they managed it with great strength and vivacity. But the humour of the town was turned against them, and all the clergy appeared for the Doctor. Many of the queen's chaplains stood about him, encouraging and magnifying him; and it was given out, that the queen herself favoured him, though upon bishop Burnet's first coming to town, which was after the Impeachment was brought up to the Lords, she said to him, that it was a bad Sermon, and that he deserved well to be punished for it.

Sir John Holt, lord chief justice of the Queen's-bench, died during the Trial of the Doctor, upon the 6th of March. He was very learned in the law, and had, upon great occasions, shewed an intrepid zeal in asserting its authority; for he ventured on the indignation of both Houses of parliament by turns, when he thought the law was with him. He was a man of good judgment and great integrity, and set himself with great application to the functions of that important post. Sir Thomas Parker was immediately made lord chief justice in his room. This great promotion seemed an evident demonstration of the queen's approving the prosecution; for none of the managers had treated the Doctor so severely as he had done: yet secret whispers were very confidently set about, that though the queen's affairs put her upon acting the part of one, who was pleased with this scene; yet she disliked it all, and would take the first occasion to shew it.

On the 10th of March the earl of Nottingham said, that he had something to propose; and the Lords being adjourned to their House, he started an unexpected question, "Whether in prosecutions by impeachments for high crimes and misdemeanors, by writing, or speaking, the particular words, supposed to be criminal, are necessary to be expressly specified

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in such impeachments?" After some debate the Lords resolved to consult the judges, who very readily delivered their unanimous opinions, "That, according to law, the grounds of an indictment or impeachment ought to be expressly mentioned in both." Those, who were for punishing Dr. Sacheverell, were not a little surprized at this unforeseen difficulty, which was of no less consequence, than to annul the whole prosecution, and to make it necessary for the Commons to begin anew, which they could not expect to have time to do. But it being suggested, that the judges had delivered their opinion according to the rules of Westminster-hall, and not according to the usage of parliament, the Lords at last resolved, "That in impeachments they were to proceed according to the laws of the land, and the law and usage of parliaments;" and, upon searching the Journals of the House for precedents, they found a parallel instance to that of Dr. Sacheverell's Impeachment, which was that of Dr. Mainwaring in king Charles 1's reign, wherein the words, for which he was impeached, were not expressly mentioned in the Articles. Whereupon it was voted after some debate, "That by the law and usage of parliaments in prosecutions by impeachments for high-crimes and misdemeanors, by writing or speaking, the particular words, supposed to be criminal, are not necessary to be expressly specified in such impeachments:" against which Resolution many lords entered their protest.

Debate in the Lords on the Articles of Impeachment.] March 16. The queen went incognito to the House of Lords, where a motion being made to declare, "That the Commons had made good the first Article against Dr. Sacheverell," a warm debate arose.

The Earl of *Wharton*, who spoke first, said, "There is a different strain between the Doctor's Sermon and his speech; the speech is a full confutation and condemnation of the Sermon. All he has advanced about non-resistance and unlimited obedience, is ridiculous and false; as is also his distinguishing in the affair of the Revolution, in which there was notorious resistance in the association begun at Exeter, and in the seizing of York and Oxford gates, and breaking the bridge. The doctrine of passive obedience, as pressed by the Doctor, is not reconcileable to the practice of churchmen. If the Revolution is not lawful, many in that House, and vast numbers without, were guilty of blood, murder, rapine, and injustice: and the queen herself is no lawful queen, since the best title she had to the crown, was her parliamentary-title, founded on the Revolution."

The Lord *Haversham* spoke as follows:

"My Lords; When I consider where this impeachment first began, I cannot but think the design of it was very good; but whatever it was, in its first intendment, it is very evident, it has already procured very mischievous effects; it has created great disturbances in private families, and raised a ferment in the nation, that will not be laid by your lordships' judgment, let that be what it will. It has been a two-edged mischief; giving the church on the one side, and the dissenters on the other, too just apprehension, that they are both in danger. Nor can this be wondered at, when your lordships have been told, by some of the managers, of a pretended divine right of the church, and when it has been more than hinted by the managers of the House of Commons, that the clergy ought to be directed by the civil power, what doctrine they should teach: nay, when they have authoritatively taken upon them to interpret Scripture, and charged it as a crime upon a minister, that he had wrested several places of it to his own wicked intentions.

"My lords; After so noble a defence made for the Doctor by his counsel, and so great and moving an apology by himself, I should not trouble your lordships upon this occasion, were it not more in justification of myself, for the judgment I shall give, than for the sake of the Doctor, whose cause, I think, now stands in very little need of it.—I was, my lords, a sufferer in the late reigns, as well as others: I was in the Convention-parliament, and in the vote of Abdication; and am, at this day, of the same principle I was then; and yet, notwithstanding this, I am not ashamed to say to your lordships, that I think myself obliged, in justice, to acquit the Doctor from the charge brought against him in this Article. And though this may seem strange to some of your lordships; yet, I hope, it will not appear so very strange, as to see bishops vote against their own doctrines, and Dissenters in the midst of a mob that are pulling down meeting-houses; especially after the reasons I shall offer to your lordships for the support of my opinion.

"I shall not trouble your lordships about the original of government, or the divers forms of it; your lordships heard that learnedly discoursed on by one of the managers of the House of Commons, below: but there is one thing, my lords, that, if my memory serves me right, that gentleman omitted; and it is a matter too, that I take to be of the greatest consequence to any government whatsoever; I mean, the Divine Appointment, or Institution of government itself: from which appointment it is, that men are obliged to obedience to the magistrate, not only for wrath, or fear of him, but for conscience sake, for dread of a future punishment; which is the greatest security the magistrate has. And I the rather mention this, because of notions that some people have of late advanced of their own, (and have found their advantage too in so doing) of a discretionary obedience only; that is, in my opinion, whilst the government is for them, they will be for it, and think themselves bound to obey no longer. It is not necessary to the proof of this Divine Authority, to fix the just time and place, when, and where, and how the knowledge of it was first communicated to mankind; it is enough, that we have it as expressly, as

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plainly, and as clearly declared, as can be put into words, that it is so.—There is another thing, my lords, that, in general, I would mention to your lordships, before I come to the Article itself; which may otherwise be the occasion of some mistake in this debate. We are not now judging according to our own notions of politics, or determining how far resistance, or non-resistance, is lawful: it would be a strange rule of judgment, to find any man guilty, for the sake of one's private opinion, and for the establishing a doctrine which he likes, and his neighbour does not. But the only question before your lordships, is, whether, and how far, the House of Commons have made good their charge against the Doctor? And I take the liberty to say plainly to your lordships, that in my opinion, they have been very far from making good their charge against him in this article.

"My lords; To prevent the least mistake, I shall read the words of the Article to your lordships, as they stand in the Impeachment: 'He the said Henry Sacheverell, in his said 'Sermon preached at St. Pauls, doth suggest 'and maintain, that the necessary means used 'to bring about the said happy Revolution, 'were odious and unjustifiable: that his late 'majesty, in his declaration, disclaimed the 'least imputation of resistance: and that to 'impute resistance to the said Revolution, is 'to cast black and odious colours upon his 'late majesty, and the said Revolution.'—The Doctor, in this Article, is charged with having maintained, That the necessary means used to bring about the late happy Revolution, were odious and unjustifiable. To support this, the Commons say, that having asserted the general proposition of the unlawfulness of resisting the supreme power, and not having excepted the particular case of resistance that was made use of, as a means to bring about the late happy Revolution; he does thereby reflect both upon the means, and upon the said Revolution. In answer to this, there have been two things insisted upon to your lordships, in behalf of the Doctor, by his counsel: first, that in cases of such a nature as this, the exception is always implyed in the general rule: and there was a very unanswerable instance brought in proof of this, at least to most of your lordships; it was the Oath of Allegiance to king James: all those that took that oath, took it in general words; and yet, such an extraordinary case as the Revolution was excepted, though not expressed by those that took that oath. The next was, the Doctor, say they, would have been justly more blamed, had he mentioned all the cases of exception; which extraordinary cases ought to answer for themselves, whenever they fall out.—And though, my lords, these two be a full Answer, yet there are two things more, I think, with submission, may be added to it, which have not as yet been taken notice of. The first is, my lords, that the proof against the Doctor is drawn by consequences of the Commons' own making, which he himself disowns: and I appeal to that reverend and learned Bench, who are great masters of controversy, whether it is not an established rule among all learned men, that have the least spark of ingenuity, that no man ought to be charged with consequences, let them appear to his adversary never so clearly and undeniably to follow from his assertion, when he himself denies those consequences? This is so known a maxim, in all disputes between Protestants and Papists, and between Protestants themselves, that it cannot be denied. Now, the Doctor himself denying, as he does, that he had the least thought of including the Revolution under his general assertion, or that he applied his doctrine of non-resistance to that case, cannot, without the highest injustice, be charged with consequences, which he himself utterly denies.—In the next place, it is impossible, in my opinion, to prove, that resistance was made use of as a means to bring about the late happy Revolution; and consequently, is not within the Doctor's general maxim. 'Means,' my lords, is a relative term, and refers to some end: and the end and design of the prince of Orange in coming hither, and of those that joined him when he was here, being to have the nation and rightful succession secured by a free parliament; it follows, that whatever force was, at that time, made use of, could not be made use of as a means to bring about an end which was never intended. Far be it from me, my lords, to lessen this great undertaking to deliver us from Popery and arbitrary power! And though the glory of that enterprize is wholly attributed to king William; it is certain, her present majesty had her share in it, however that is forgotten: for, give me leave to say, That had not her majesty countenanced the undertaking of the prince of Orange with her assistance, in my opinion, the success had been very dubious.

"Now, is it possible, my lords, to imagine, that it was ever the design of her majesty, or those that joined the prince of Orange, to take the crown off of king James's, and put it upon king William's head? No, my lords; the avowed great design was quite otherwise, as appears by the declaration itself, which was read below: it was to restore and secure our laws, from the invasion that had been made upon them by arbitrary power: it was to secure that right, that all the world knows, the princess had to the succession of the crown, and to have every thing settled by a free parliament; and not to make a Revolution, by dethroning king James. This the prince himself owns, when he says, in his declaration, he had no other design in coming hither, but a free parliament.

"My lords, I take it to be of most dangerous consequence, to judge any man by suggestions and innuendos: let what will be said to justify it, it shall never be the rule of my judgment. Groundless suggestions, my lords, have within my memory, been the pretence of power, to cover illegal oppression, with the shew of

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reason, to the public. I will give your lordships but one instance of it: it was the case of a reverend prelate, now in the House; I mean the archbishop of York: his grace was then Dr. Sharpe only. It was in the year 1686: there was an order, directed by way of letter to the protestant bishops to discharge all the inferior clergy from preaching upon controverted points in divinity: they thought it served the designs of popery then to direct ministers how they should preach; which was in effect, to forbid them to defend their religion. This precedent was taken from an order in queen Mary's time, says the printed account; when, at the same time, it was attacked by the Romish priests with all the vigor they were capable of, and the popish sermons and discourses were printed by authority. Notwithstanding this order, the Doctor took occasion, in some of his sermons, to vindicate the Church of England, in opposition to the frauds and corruptions of popery: but this, by the court emissaries, was interpreted much the same way as the Doctor's sermon is now, to be endeavouring to beget, in the minds of his hearers, an ill opinion of the king, and his government, by insinuating fears and jealousies, to dispose them to discontent and to lead them into schism, disobedience and rebellion.

"My lords, when the Homilies and Articles, when so many archbishops and bishops, and the universities, and most of the foreign divines too, (especially the Lutherans) have asserted the same doctrine of non-resistance to the supreme power, as Dr. Sacheverell has; I think it the hardest case in the world, that this unfortunate gentleman should be singled out, and made a criminal and a kind of martyr, enduring the trial of cruel mockings, yea, moreover of bonds and imprisonment, for asserting the same doctrine. It is true, Beza, and Pareus, and some others of the Calvinists, are of another opinion; but it is known that Pareus's commentary on the 13th of the Romans, was burnt at Oxford, by the order of king James 1, for asserting that doctrine.

"But there is one thing, my lords, so astonishing in this prosecution, that I cannot but take notice of it: those who were at man's estate at the Revolution know how industrious on the one side, all that were friends to king James were, to put his leaving the nation then upon the foot of force and resistance: as thinking this the strongest and best argument, to justify his withdrawing himself from his people. They racked their brains to find out arguments to convince men, that his life was manifestly in danger by staying here; and that it was for the sake of that, and his liberty, that he was forced to withdraw; and that his withdrawing was just, being an act of necessity, and not of choice.

"On the other side, those that were friends to the Revolution, made it their business to persuade the world that all this was but a colour and pretence, and that the fact was quite otherwise: that the sense and conviction king James had of what he had done, prevailed upon him rather to throw off the government than concur with a free parliament. That this was the only foot; and that it was not then put upon the foot of forfeiting the government by mal-administration; if any man denies, I appeal to the papers that were then writ, and are now in print, on this subject. This being so, it is very strange to see so great an alteration in men's notions of things; and that now, after our constitution has maintained itself upon this foot, against all designs and attempts that have been made upon it, for above 20 years, those very men, and that party, who endeavoured to place the Revolution then upon king James's voluntary desertion, which they called abdication, should now, without any reason given, be for changing that foundation, and do all they can, to put it upon king James's foot of force and resistance. What my lords, are we endeavouring, after 20 years, to make king James's title better now, than any of his friends could make it then; and not only finding out arguments they never thought of, but impeaching any that dare so much as question the truth and force of them? This, my lords, seems very strange.

"My lords, I cannot but take notice to your lordships of what was said by that noble lord who spoke last; because, to me it appears to be a matter of the last consequence to the honour of her present majesty. He told your lordships, that the best title her majesty had to the crown, was her parliamentary title. I must take the liberty to affirm the quite contrary, and that, in my opinion, the best title her majesty has, is her hereditary title; though I deny not, but that the act of parliament is a strengthening and confirmation of that title; yet I deny a parliamentary title to be the only or the best title that the queen has to the crown she wears. And in saying this, I do not fear the malicious reflections of having a squinting regard to the title of any person on the other side of the water; for, in affirming, (as I now do to your lordships) that her majesty is my rightful and lawful queen, by right of inheritance, and as she is the daughter of king James the second, I do in so many words affirm also, that there is no other person the rightful and lawful heir to king James, but herself. And if the present impeachment of Dr. Sacheverell shall have this effect, (as I hope it will) to convince the nation of the undoubted truth of her majesty's right of inheritance to the crown, (a matter now so industriously opposed) the security this will bring to her majesty's person and crown and to the Succession in the Protestant line, and the illustrious House of Hanover afterwards, shall prevail with me easily to pardon any warm and unguarded expressions, that the Doctor may here and there have dropt, and made use of in any of his discourses."

The Lord *Ferrers* likewise endeavoured to excuse the Doctor; alledging, That the Revolution was not mentioned in his sermon: that

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nothing but plain matter of fact should ground such a solemn accusation: that if the Doctor were guilty of some foolish, unguarded expressions, he ought to have been tried in Westminster-hall: but his lordship doubted, whether even in the inferior courts there would be sufficient matter to convict him. He was backed by

The Earl of *Scarborough*, who said, The Revolution was a nice point, and above the law; and moved, that they should adjourn the debate, and take time to consider, before they gave their judgment.

The Lord Haversham having reflected on some bishops voting contrary to their doctrines,

The Bishop of *Oxford*, (Dr. Talbot,) made the following Speech:*

"My lords; Some of this bench are necessarily called up, by words which fell from the noble lord who spake third in this debate, who was pleased to mention among other strange things, 'Bishops voting contrary to their doctrines.' The opinions of several of the reverend prelates have been read before your lordships in Westminster-hall: they were first quoted by the counsel for the defendant, and by their order read in such a partial and unfair manner, that if I may be allowed to use any other author after the same way, to take a naked proposition out of his book, and not consider the coherence or dependance of the words how it may be explained or limited in other places, to read just so far as may serve my purpose, and stop when any thing follows that may set the matter in a just light, I dare undertake to make any author speak on which ever side of the question I please.

"But the managers for the honourable House of Commons did justice to those reverend prelates, by obliging the clerk to read other passages in their books, which clearly explained their opinions; and so the only purpose that was eventually served by producing those quotations, was that which I fear was not intended, the vindicating those reverend prelates from the uncharitable imputation of having asserted a doctrine in their writings which they had contradicted by their practices, in relation to the Revolution and the government founded upon it.—I hope to be able to reconcile the vote which I shall give, with the opinion which I have always been of, and which having not been produced below, I stand up to give it your lordships here, being far from censuring, far from entertaining the least disrespectful thought of any that shall differ in opinion from me.—I own the subject now in debate, is a matter of great consequence, and of great nicety and tenderness; and that he, who should presume to entertain your lordships upon it, ought to be better qualified, and better prepared than I am in other respects, but I will give place to none in those that follow, viz. in delivering myself with that respect and deference which is due to this House, that humble diffidence which becomes a just consciousness of my own weakness, and that plainness and sincerity which becomes that character, which however unworthy of it, I have the honour to bear; and then I am sure I may depend upon your lordships' known candour, honour and justice, that if any thing should fall from me less correct, or less guarded than it ought to be, it shall receive the most favourable construction that it is capable of.

"Before I deliver my opinion, I beg leave briefly to state the question, and in order to that to lay down two premisses.—1. That government in general, was in its original institution, designed for the good of the whole body; men were not formed into societies, only to be the subjects of the arbitrary wills, the slavish instruments in the gratifying the ambitious or other corrupt designs, of any one or more men; but for the safety and prosperity of the whole community.—2. That in the Holy Scriptures (as far as I can find) there is no specification of any one particular form of government to which all nations and bodies of men, in all times and places, ought to be subject: nor are there such exact accounts of the extent of the power of the governor or obedience and submission of the governed, as can reach to all cases that may possibly happen.

"There are many general precepts requiring the obedience and submission of subjects to their governors: 'Let every soul be subject to the higher powers; you must needs be subject not only for wrath, but also for conscience-sake; he that resists resists the Ordinance of God; and submit yourselves to every human constitution for the Lord's sake,' &c.—But yet, these Scriptures do not tell us how far we must obey and be subject, nor do they necessarily imply that there can never be any cases wherein we may not obey and not be subject but resist; because there are other places in scripture, where other duties are required in terms as large and general as these, nay in universal terms, which yet must admit of exceptions.—Some of the most zealous contenders for the absolute power of the prince, and unconditional submission of the subject, found themselves very much upon the fifth commandment, Honour thy father and mother, which they expound as comprehending political as well as natural parents, and I do not gain-say it; but then pray, my lords, let us see in what terms the duty of children to their natural parents is required in Scripture: Children, says the Apostle, obey your parents in all things; this expression is surely universal enough; and from hence according to some men's reasoning, it must follow, if children must obey their parents in all things, then they may resist in none.

"But will any body say, that notwithstanding the universality of this precept, there may not be some exceptions and limitations understood, both as to the active and passive part of the child's obedience? As to the active,

* Printed for John Morphew, near Stationers Hall, 1710.

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no one will deny, but the command must be restrained to *licita et honesta*; they are not to obey in all things absolutely, but in all things that are lawful and honest.—As to the passive part of the child's obedience, the submission or non-resistance required, permit me to put a case. Suppose a parent in a phrenzy, in a fit of drunkenness or passion, draws his sword and attempts to kill his innocent son, and the son has no way to escape from him; is he obliged by this duty of not resisting, to stand still and let his father sheath his sword in his bowels? May he not, though he must still have a care of his father's life, defend his own? May he not put by the pass, grapple with his father and disarm him if he can? My lords, surely he may; that prime law of nature, of self-preservation, will justify him in it: and then why may not the same law of self-preservation, justify the political child, the body of the people, in defending their political life, i. e. their constitution, against plain and avowed attempts of the political parent utterly to destroy it? And it is upon this point only that I shall state the question.

"I do allow, that in all governments whatsoever there is an absolute power lodged somewhere. With us, as I humbly conceive, that power is lodged in the legislature; for which I have the authority of a great politician and statesman, sir Thomas Smith, who was Secretary of State to two princes, king Edward 6, and queen Elizabeth, who in his book, *De Republica Angl.* a book seen and allowed as is said in the Title page, in that chapter where he treats of our parliaments and the authority thereof, lays down this assertion, "The most high and absolute power of the realm of England consisteth in the parliament: and giving particular instances of that power, among others mentions this, 'That the parliament gives forms of succession to the crown.'

"The executive power with us is lodged with the prince; and I do readily allow that the prince so vested with the executive power, and all others lawfully commissioned by him, acting according to their commission, and within those laws, with the execution whereof he and they are respectively trusted, are irresistible: the person of the prince is always inviolable: no personal faults in him; no injuries to particular persons, where they can have no redress by law, as in several cases they may have; no general mal-administration, whereby the public may be greatly hurt, can justify any forcible resistance of his subjects; nor any thing less than a total subversion of the constitution:

"But if in a legal monarchy, where such laws have been enacted by common consent of prince and people, as are to be the measures of his government as well as of their obedience, that limit his power as well as secure their rights and properties, the prince shall change this form of government into an absolute tyranny, set aside those laws, and set up an arbitrary will in the room of them; when the case is plain, and when all applications and attempts of other kinds prove unsuccessful; if then the nobles and commons join together in defence of their ancient constitution, government and laws, I cannot call them rebels. Allow me, my lords, to lay before you a few things in maintenance of what I have advanced. And,—1. I would humbly offer some facts, which I allow do not directly prove what I have said to be true, but they do prove it to have been the opinion of our princes, parliaments, clergy and people in the reigns of those three great princes, queen Elizabeth, king James and king Charles 1. I mean the assistances which those princes gave to the subjects of other countries that were resisting their respective princes; and to enable them to do so, they had subsidies given them in parliament and convocation, and there were prayers composed and used for the success of their arms.—Surely, my lords, if those princes, parliaments, clergy and people had been of opinion, that the resistance of subjects against their princes, was in no case lawful, but always damnable rebellion; they would never by aiding and assisting such rebels have involved themselves in the guilt, and exposed themselves to the dangerous consequences of such a sin. I mention not the particular stories, because they are better known to your lordships than to me, and because I doubt not but in the course of this debate, some lord or other will give a larger account of them; but I cannot forbear observing one thing relating to that assistance, which that pious prince, and now glorious saint in heaven, king Charles 1, gave to the Rochellers, who were surely the subjects of the king of France; he ordered a fast by proclamation, and appointed a form of prayer to be drawn up for the imploring of God's blessing. It is highly probable that bishop Laud had a great hand in composing those prayers, he being then bishop of London, and in great favour, and the archbishop of Canterbury, Abbot, at that time in disgrace. But whoever composed them, I beg leave to read part of one of the collects in that office. 'O Lord God of hosts, that givest victory in 'the day of battle, and deliverance in the time 'of trouble, we beseech thee to strengthen the 'hands, and encourage the hearts of thy ser-'vants in fighting thy battles, and defending 'thy altars that are among us, and in all the 'reformed churches.' It seems the reformed churches were thought to have God's altars among them then, however they have been vilified since. But that which I would observe from this passage is this, That neither that excellent king who commanded those prayers to be composed, nor the bishops who composed them, nor the clergy and people who used and joined in them, could in so solemn a manner have recommended those forces to the divine protection and favour, and as such as were fighting God's battles, if they had thought they were fighting against God in his vice-gerent, and as defending his altars if they believed they were resisting his ordinance.

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"2. I could produce several authorities, in support of what I have laid down, but I shall mention but one; It is in a book written professedly on this subject, and the passage I shall quote comes home in point to the matter in hand; the book was written in queen Elizabeth's time; every one who is acquainted with the history of her reign knows what attempts were made by the pope and his party against her government and life, by excommunicating, deposing her, absolving her subjects from their allegiance, by raising tumults and insurrections, by dagger, poison and what not: And it is certain, that they were these wicked practices of the pope and his followers, and the doctrines by which they justified them, that the compilers of the Homilies which were then made, and other authors who then wrote about the power of the prince and the duty of the subject, had principally in their view: The book I mean, is intitled, The true difference between Christian Subjection and Unchristian Rebellion. It is written by way of dialogue between a Christian, whom the author calls Theophilus, and a jesuit whom he calls Philander. I beg leave to read a quotation out of it. Theophilus the Christian says, 'I busy not myself in other men's commonwealths as you (the jesuits) do, neither will I rashly pronounce all that resist, to be rebels: Cases may fall out even in Christian kingdoms, where the people may plead their right against their prince, and not be charged with rebellion. Philander the Jesuit asks, as when for example? Theophilus the Christian replies thus. If a prince should go about to subject his kingdom to a foreign realm, or change the form of the commonwealth from impery to tyranny, or neglect the laws established by common consent of prince and people, to execute his own pleasure; in these and other cases, which might be named, if the nobles and commons join together to defend their ancient and accustomed liberty regiment and laws, they may not well be accounted rebels.' This book is said, in the title page, to have been perused and allowed by public authority; was written by a great man, Dr. Bilson, then warden of Winchester college; printed at Oxford by the University printer, and dedicated to queen Elizabeth, and the author was afterwards made bishop of Winchester. I could offer many other authorities, not from false sons or perfidious prelates of the Church, not from men of factious and antimonarchical principles in relation to the state, but venerable names, ornaments to the ages they lived in, and such as will be remembered with honour in succeeding ones: But I am superseded in producing, and your lordships' trouble saved in hearing more particular quotations to this purpose, by what is yielded by a reverend divine of great parts and learning, far enough from the suspicion of being prejudiced against the rights of princes, or partial to those of the people, I mean the reverend dean of Carlisle, who in a Latin discourse preached and printed in this town upon the duty of submission, stating some cases of extreme necessity, and putting the question, Whether it may not be lawful for the people in such cases to resist? answers, 'Viri boni et graves, &c.' 'That good and judicious men, men that have taken great and useful pains in defending the rights of princes, and repressing popular license, have contended that it is lawful:' He adds indeed, 'whether they have done right or wrong, let others judge,' and does not give his own opinion. But since he has granted, that such men as he has described, men of probity and judgment, zealous assertors of the rights of princes, and repressers of popular license, have contended that in cases of extreme necessity it is lawful for the people to defend themselves; I may comfort myself, if I err in my opinion, that I err in good company. But I humbly conceive I do not err, and that, —3. For this plain reason, That if it be utterly unlawful to resist in any case whatsoever, even that of a total subversion of the constitution and laws; then there is no distinction of governments, of absolute, I mean, and limited; or if there be a distinction, it is a nominal one without any real difference; for what difference is there between a prince's governing arbitrarily without law, and governing arbitrarily against law? Betwixt having no laws at all, and having precarious laws that depend entirely on the will of the prince, whether he will observe one of them, or subvert them all, and if he does, the people cannot help themselves?

"But, my lords, I hope and believe that there is a real distinction of governments, and that the subjects of all governments are not in the same wretched condition that those of France and Turkey are in. I hope we have not boasted falsely or vainly of our own form of government, that we are blessed with a constitution more happy than any nation in the world enjoys, that allows and secures as great, and, I had almost said, God-like powers and prerogatives, to the crown as any wise and good prince can desire, a power of doing every thing that is good and nothing that is ill, and at the same time secures most valuable rights and privileges to the people. What wise or good prince would not rather chuse to reign over free subjects, than tyrannize over slaves? To receive a willing chearful obedience proceeding from the principles of gratitude, love, and interest as well as of duty, rather than a forced one, owing merely to a principle of fear, the principle from whence the Indians worship the evil spirits?

"My Lords, such a frame of government your lordships have received from your ancestors; and I hope and trust, that in grateful respect to their memory, and in tender regard to your posterity, (I say nothing of ourselves, my Lords; for as for us we have the happiness to live under the government of the best of Princes that ever heaven blessed a nation with; for us, I say, were our government as arbitrary as any in the East, yet I should think our rights, liberties, and properties and whatever

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is most dear and valuable to us, as safe as if they depended intirely upon her majesty's gracious will, as they are now they are secured to us by our laws, or stronger fences, if they could be made) but I speak in regard to those that are to come after us; and I do hope and trust, that as your lordships have received such an inestimable treasure from your predecessors, you will transmit inviolable to your posterity.

"My Lords, I fear I tire you, but I must beg your patience a little longer, while I express my surprize and wonder that the doctrine of passive obedience and non-resistance, in the unlimited extent in which some explain it, is so diligently inculcated, and so zealously pressed at this time. Passive Obedience, I own, when truly stated, is a truly christian duty, a perpetual duty as to the obligation, but occasional as to the practice of it. Now preachers do not usually, neglecting the pressing of other duties of more constant practice, lay out their time and labour in filling both pages of their discourses with earnest assertions and violent exhortations to the practice of an occasional duty, unless they have some near prospect of an occasion for the exercise of it. And yet, my Lords, has this one duty been, of late, more frequently and earnestly asserted and urged both from the pulpit and press, than all the other duties of christianity: and what occasion for this does any one pretend to have in view? —Can there be a wretch so abandoned, so lost to all sense of gratitude and every thing that is good, as to be capable of admitting a thought, that our gracious queen has done, is doing, or intending to do any thing, that may give her subjects occasion for the practice of this duty? has she not ever since her happy accession to the throne, postponed, sacrificed her own repose and ease to the quiet and happiness of her subjects? has she not clearly shown that she has nothing so much at heart, as the good and prosperity of her people, the true interest and honour of her kingdom, which she has carried higher than any of her royal predecessors ever did before her? has she not approved herself a true parent of her political children, by exercising as prudent a care of, and expressing on all occasions as tender an indulgence to them, as any natural parents ever did towards theirs?—If then there be no occasion from the conduct of our prince, is there any reason from the behaviour of her people, that may justify this extraordinary and otherwise unseasonable zeal for this doctrine? do they (excepting such as the zealots for this doctrine have excited to disturb her peaceful reign at home, by rebellious and dangerous tumults and insurrections,) shew any uneasiness under her majesty's government, or inclinations to throw it off? do they not bless their glorious queen and God for her? do they not on all occasions express their grateful sense of the many inestimable blessings they enjoy through her administration? do not they constantly offer up their devout prayers to God for her long life and happy reign? do they not willingly pay their taxes for the support of her government, cheerfully expend their treasure and blood too in defence of it?—What then can be said for such a conduct, which can have no other natural tendency than to create unreasonable jealousies of her people in the head of our queen, and groundless fears of their queen in the hearts of her people. Jealousies in the queen, that her subjects are inclinable to rebel against her, when the clergy think it necessary thus to press these restraints upon them; and fears in the people, when their pastors are so industriously preparing them for sufferings?

"My Lords, I would not be thought to charge upon all that hold and assert this doctrine, the consequences which I may with too much reason charge upon some of them; I mean such as do not allow her majesty's title to the crown, but refuse to take the oaths to her, or join in prayer for her, and have upon that account formed one of the most unaccountable schisms that ever was made in the Church; some of these have engaged zealously in asserting this doctrine; and one of them in a paper written in vindication of it, has not been afraid to insinuate a parallel between the case of her majesty and the Pretender, and that of Athaliah and Joash.—Horrid suggestion that would make one tremble! What do these men mean? Any service to her majesty? No: The consequences as to them are plain. If to resist upon any occasion whatever, be unlawful, be rebellion, damnable rebellion; then the Revolution was rebellion, and all that were concerned in it are involved in that guilt; then we have continued in a rebellion ever since; then if we would avoid damnation, we must repent of that sin; but there is no true repentance without restitution, and if there must be restitution, they will tell you what that is.—I would charitably hope, that the unfortunate person now in judgment before your lordships, did not intend to carry matters so far: But I must say, his doctrine as he has stated and managed it, under his head of false brotherhood, with relation to the state, does give too great a handle for those that have such views, to improve what he has said to their purposes.—The Counsel for him, have laboured to defend him against the Charge in this Article, by producing a great many quotations out of the Homilies, statutes, and writings of divines dead and living wherein this doctrine has been laid down generally. They all allowed that cases of extreme necessity were always excepted out of this general doctrine; and that though the exception was not expressed, yet it was always implied; and they allowed farther, that the case of the Revolution was a case of such necessity: But how did they apply this to the case of their client? Thus: they said, that those divines whom they had quoted, were never found fault with for asserting the doctrine in general terms, not expressing but tacitly implying the exception; then they asked why should the Doctor be charged for asserting the doctrine in general terms as others had done, not expressing the

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exception which they had not expressed? Why should not he be intitled to the favourable construction of tacitly implying the exception of cases of necessity, such a necessity as they allowed justified the Revolution?—Indeed I should readily have admitted the plea, if the Doctor had done no more than barely assert the doctrine in general terms, and his only fault had been that he had not expressed the exception which he tacitly implied: But has he done no more than this? Has he not mentioned the case of the Revolution, with no other view, as I can see, than to expose it, not as an exception out of his general position, but an objection against it? Our adversaries, says he, that is, those that oppose his general doctrine, think they have us sure, *i. e.* effectually confute that doctrine, by objecting the Revolution. This objection must suppose that there was resistance at the Revolution; for to say that the general doctrine, that it is not lawful in any case to resist, is not true, because the Revolution was lawful, in which there was no resistance, would be a wonderful objection indeed: I say, resistance must be supposed in the objection, to make sense of it. How then does he solve this objection? Does he say the general doctrine always implies an exception of cases of necessity? That the Revolution was a case of such necessity, and therefore that necessity justified the resistance at the Revolution? No, but by advancing a strange position (which he proves by as strange a medium) viz. That there was no resistance at the Revolution: plainly implying, that if there was resistance at the Revolution, which every body knows there was, the Revolution stands condemned by his general doctrine. So that I cannot see that his learned counsel, who wanted neither abilities nor inclinations to serve him, have at all defended him against the charge in this Article. But this they have effectually done, they have given up his general doctrine, if it admits of no exceptions; and thereby cleared the Revolution and the necessary means whereby it was brought about, from those black and odious colours which he endeavoured to cast upon them.

"After all, I can truly appeal to my own heart, and a greater than it, the Searcher of it, that I am not any ways prejudiced against the person of the unhappy prisoner, but rather in favour of him, as I am of all men in his suffering circumstances, by a natural tenderness (it may be a weakness, but such a one as I cannot help) which never suffers me, however obliged in justice to it, to do a hard thing to any one however deserving it, without doing at the same time a hard thing to myself: And if your lordships should be of opinion in the conclusion of this trial, That the Commons have made good their charge against him, I am sure I could come into as easy a sentence upon him as may be consistent with the honour and justice of your proceedings, and with that which I take to be the chief end in all punishments, not so much the hurting the offender, as the preventing the like offences, and hindering others from committing them for the future.—But still, my lords, there is surely a tenderness and compassion due to our queen, our country, and our posterity, all which I humbly apprehend are highly concerned in the issue of this affair. If clergymen may with impunity publicly in their sermons arraign and condemn the Revolution: besides the reflections they cast upon all the worthy patriots that were concerned in that great work, the commonalty, gentry, and nobility, lords upon every bench in this House besides this, it must shake, it must sap the very foundation of our present establishment as it stands upon the foot of the Revolution, and utterly destroy our future hopes in the Protestant Succession, which is founded upon that bottom only.

"My lords; I must humbly ask pardon for having trespassed so long upon your patience, and will conclude with this one word, That in my opinion, these practisings of clergymen (to use the expression of a great and eminent prelate) in state matters, are of that dangerous tendency and consequence, that if there be not some effectual stop put to these practisings, these practisings will, in time, put an effectual end to our constitution. The Commons had therefore reason to bring this matter in judgment before your lordships, and I think they have fully made good their charge in the first Article of their Impeachment against Dr. Sacheverell."

The Bishop of *Bath and Wells* (Dr. Hooper) endeavoured to excuse Dr. Sacheverell; "He allowed, indeed, of what the bishop of Oxford had advanced, about the necessity and legality of resistance in some extraordinary cases; but was of opinion, that this ought to be kept from the knowledge of the people, who are naturally too apt to resist; and that the opposite doctrine ought rather to be maintained and inforced. That the Revolution was not to be boasted of, and made a precedent; but we ought to throw a mantle over it, and rather call it a Vacancy or Abdication: And the Original Compact were two very dangerous words, not to be mentioned without a great deal of caution. That they, who examined the Revolution too nicely, were no friends to it; for, at that rate, the crown would roll like a ball, and never be fixed." He concluded, "That there seemed to be a necessity to preach up Non-resistance and Passive Obedience at that time, when resistance was justified."

The Duke of *Argyle*, who spoke on the other side, said, among other things, "That the clergy, in all ages, have delivered up the rights and liberties of the people, and preached up the king's power, in order to govern him; and therefore they ought not to be suffered to meddle with politics."

The Earl of *Anglesey* answered to this, "That political sermons were sometimes necessary, and allowed on the 30th of January, and other occasions. As to the Revolution, which was the chief matter now in debate, he

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said, the vacancy of the Throne was properly the thing; and therefore the mentioning necessary means, was mere nonsense in the Doctor; and he would not find him guilty for nonsense; the rather, because the doctrine of resistance, which the Doctor had confuted, justifies rebellion, murder, and all manner of crimes."

The Duke of *Leeds*, who spoke on the same side, made a very long speech, wherein he owned, "he had a great share in the late Revolution, but said, he never thought, that things would have gone so far, as to settle the crown on the prince of Orange, whom he had often heard say, that he had no such thoughts himself. That they ought to distinguish between Resistance and Revolution; for Vacancy or Abdication was the thing they went upon, and therefore Resistance was to be forgot; for, had it not succeeded, it had certainly been rebellion; since he knew of no other but hereditary right." Upon this

The Bishop of *Salisbury* (Dr. Burnet) made the following Speech:

"The counsel for the prisoner did so plainly and fully yield all that any loyal subject has ever pretended to, that in cases of extreme necessity, self-defence and resistance were lawful, and that this was the case at the Revolution; that it may not be necessary to say any thing further on this head, if it had not been that the evidence they brought seemed to carry this matter much further, and that the prisoner himself allowed of no exception, in cases of necessity. And since it is grown to be a vulgar opinion, That by the doctrine of the church of England, all resistance in any case whatsoever, without exception, is condemned; I think it is incumbent on me, who have examined this matter long and carefully, to give you such a clear account of this point, as may fully satisfy you as it did myself.

"I served in the Revolution, and promoted it all I could. I served as chaplain to the late king: I had no command, and carried no arms, but I was so far engaged in it, that if I could see that I had gone out of the way in that (and the many up and downs we have gone through since, has given much occasion to reflect on that transaction) I should hold myself unworthy to appear longer, either in this habit, or in this great assembly: But should think myself bound to pass away the rest of my life in retirement or sorrow. There is nothing more certain in religion, than that we ought to repent of every sin we have committed: and that we cannot truly repent unless we repair and restore as far as it is in our power.

"I go now to give you the account of the doctrine of our church in this particular. In the times of popery it was a tenet, built upon bishops setting the crown on the heads of princes, and anointing them, that they held their crowns of the church, and at the Pope's mercy; who had for about 500 years got into the claim of deposing them, and giving their dominions to others, in case they were heretics, or the favourers of them. But the Reformation being in its first beginning protected by the princes of Germany, by the kings of the North, and then by the kings of England; they came every where in opposition to the papal notions, to say that kings had their power from God; Not that they meant, that they had any distinct authority besides the law of the land derived to them from God; but that by the laws of God, the authority of the law of the land, was secured to them. For when a different authority from that of the law came to be pretended to, and to be grounded on these general expressions, that received here a parliamentary censure, and it was then declared that the laws of religion in the scripture did only establish the several constitutions and governments that were in the different parts of the world.

"The occasion that the Apostles had to write what we find in their Epistles, with relation to government, was this; The Jews had a notion among them from a passage in Deuteronomy, that they were only to set a king over them, 'one from among their bretheren, and not a stranger.' From whence it is, That to this day they do not think they are bound in conscience to obey any magistrate, who is not one of their nation. Now the first converts to Christianity being Jews, the Apostles took care that they should not bring this dangerous notion with them into the Christian religion: But they did not meddle to determine where this authority was lodged, that was to be gathered out of the several constitutions: They did not determine how much was due to the emperor, and how much to the senate: And though not long after those Epistles were writ, the senate condemned Nero to die *more majorum*, to be whipt to death; none of the Christians interposed in that matter. He prevented that infamous death by his own hands; and the primitive Christians reckoned it one of the articles of the glory of their religion, that their first persecutor came to such an end.

"Not long after that Trajan was famed for that memorable expression, when he delivered the sword to the governors of the provinces, as the emblem of their authority, he used these words, 'pro me, si merear in me;' For me, but if I deserve it, against me.' That did not weaken his authority: His good government, with that of his successors for above 80 years, being the greatest and happiest time the Romans had under their emperors. This word was put on king James the 1st's coin in Scotland: It is true, that was during his minority; but when he afterwards changed his motto, the coin was not called in, but continued current till the Union.

"The primitive Christians had no laws in their favour, but many against them; So their patient suffering so many persecutions according to the laws of the empire, under which they lived, was conform to the doctrine laid down by the Apostles. When they came afterwards to have the protection of laws, they claimed the benefit of them, not without great violence,

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when they thought an infraction was made on those laws: Which broke out into great tumults, in many of the chief cities of the empire, not excepting the imperial city itself.

"But to proceed with the history of our church: When the articles of religion were settled, the books of the Apocrypha were indeed declared not to be a part of the canon of the scripture, but yet to be useful for the example of life, and the instruction of manners. A great part of these are the books of the Maccabees, which contain the history of the Jews shaking off the yoke of the kings of Syria, when they were broke in upon by a total overthrow of their whole law, and an unrelenting persecution. Mattathias a private priest began the resistance, which was carried on by his children, till they shook off the Syrian yoke, and formed themselves into a free government, under the family of the Maccabees. It were easy to shew that the Jews had been for above 400 years subject, first to the Babylonian, then to the Persian, and at last to the Grecian empire: So that by a long prescription they were subjects to the kings of Syria. It were easy also to show that this resistance was foretold by Daniel, in terms of high commendation, and is also mentioned in the epistle to the Hebrews, as the work and effect of their faith. If then all resistance to illegal and barbarous persecution, is unlawful; these books contain nothing but a history of a rebellion, and all the devotion that runs through them, is but a cant, and instead of reading them as examples of life, and instruction of manners, we ought to tear them out of our bibles with detestation. I shall afterwards shew what use was made of these books, not only by private writers of our church, but by what the whole body in convocation was about to determine.

"The next step to be made, is, to consider the Homilies: The second book of Homilies, which has the Homilies in it against wilful rebellion, is generally believed to have been composed by bishop Jewell, who was by much the best writer in that time. It is certain, he understood the meaning of them well: now I will read you two passages out of his Defence of his Apology for the Church of England; from whence we may clearly gather what his notion of rebellion was, and that he thought a defence against unjust and illegal violence was not rebellion. In one place he has these words:

"'The nobles of Scotland neither drew the sword, nor attempted war against the prince: they sought only the continuance of God's undoubted truths, and the defence, of their own lives against your barbarous and cruel invasions: they remembered, besides all other warnings, your late dealings at Vassy, where great numbers of their brethren were murdered, being together at their prayers in the church, holding up their innocent hands to heaven, and calling upon God.' In another place he writes, 'Neither do any of all these (Luther, Melanchthon) teach the people to rebel against their prince; but only to defend themselves by all lawful means against oppressions, as did David against Saul, so do the nobles in France at this day, they seek not to kill, but to save their own lives.'

"These passages shew that he looked on rebellion to be a violent rising against a prince executing the laws, which was the case of the three rebellions in England that they had in view: That in king Henry the 8th's, in king Edward's, and in queen Elizabeth's time, where the Papists took arms against their prince, who was executing laws made in matters of religion, and that with a great gentleness. Of the 11 passages quoted by the prisoner out of the Homilies, five plainly relate only to the coercing the person of the prince, in which David is set in opposition to those rebels now, though he indeed defended himself, yet he had a just and sacred tenderness to the person of Saul, when he had him in his power, which is certainly sacred by our constitution. Five of them relate to wicked princes. It was never pretended by any who pleaded for necessary defence, that the bad life of a prince can be a just cause of resistance: yet that was then pretended; for king Henry 8 had given too much occasion to reckon him a wicked prince. So there is only one of all the passages quoted from those Homilies, that relates simply to rebellion in general: and it has appeared what bishop Jewell's sense of the matter was. There is also a prayer at the end of every division of the Homily against wilful rebellion, (and by the by 'wilful' was not put in the title for nothing) for those oppressed by tyranny in other parts, that they might be relieved, and that those who were in fear of their cruelty might be comforted.

"Let us next look through queen Elizabeth's long and glorious reign, and see what was the constant maxim of that time. The year after the queen came to the crown, the war in Scotland broke out between the queen regent that governed by commission, from her daughter then queen of France, and the lords in Scotland. She, to obtain the matrimonial crown to be sent to Francis the 2d, gave assurances for the exercise of the reformed religion; but that point being gained, she broke all her promises, and resolved to force them to return to the exercises of the Popish religion: upon which the lords of Scotland formed themselves into a body, and were called the Lords of the Congregation. Forces were sent from France to assist the queen regent; upon that queen Elizabeth entered into an agreement with the Scots lords, and sent an army to their assistance, which continued in Scotland till all matters were settled by the pacification of Leith: and in a manifesto, that I have in my hands, set forth 25 years after that, I find her reflecting on that interposition in the affairs of that nation, with great satisfaction.

"The year after this war was ended, upon Francis the 2d's death, Charles the 9th, who was a child, succeeded in France. Edicts were granted in favour of the Protestants: these

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were soon after broken by the triumvirate, and upon that followed a series of wars often pacified, but always breaking out again, by reason of the violence and cruelty of the government. All these wars, till Henry the 4th was settled on the throne, were in a course of 28 years, that which some would call rebellion, being carried on against two succeeding kings. Yet the queen was in all that time still assisting them with men and money.

"In the year 1568, the provinces in the Netherlands threw off the Spanish yoke, that was become intolerably severe and cruel. The queen for some years assisted them more covertly, but when the prince of Orange was killed, and they were in danger to be over-run, she took them more openly into her protection; and by the manifesto which I have in my hands, she published the grounds upon which she proceeded. She laid down this for a foundation, that there had been an ancient league not only between the crown of England, and the princes of the Netherlands, but between the subjects of both countries, under their seals interchangeably, for all friendly offices. If this was a good reason for the queen's giving aid to the oppressed people of the Netherlands, then if the case had been reversed, that the people of England had been illegally and cruelly oppressed, it furnished the princes of those provinces with as good a reason for assisting them. In this assistance given the States, the queen persisted till the end of her reign; nor was this only done by the court, but both parliaments and convocations granted her several aids to maintain these wars: and in the preambles of those subsidy acts, the queen's proceedings in those particulars were highly approved and magnified. Bilson bishop of Winchester, and several other writers in that time, justified what she did; and not one that I ever heard of censured or condemned it.

"Upon king James's coming to the crown, the first great negociation was for a peace between Spain and the United Provinces; which lasted several years. The States insisted on a preliminary, That they should be acknowledged free, sovereign, and independent States; The Spaniards would not yield to this, nor would the States recede from it. Some here in England began to say, They were formed in rebellion, and ought not to carry their pretensions too far: Upon that king James suffered a convocation to meet; and a book of canons, with relation to the supreme authority, was prepared; in which, though the authority of the Prince, even when he becomes a tyrant, is carried very far; yet the case of the Maccabees is stated; and, it was determined, That when a new government, though begun in a revolt, is come to a thorough settlement, it may be owned as lawful. King James, who was jealous enough of the regal authority, yet did not like their carrying these matters so far: he ordered the whole matter to be let fall so entirely, that there is not a word of it in the books of convocation: But archbishop Sancroft found this collection of canons at Durham, under Dr. Overall's hand, which he copied out, and licensed the book a few days before he fell under his suspension. I soon saw that it had a relation to the affairs in Holland: For the Dutch delighted to compare their first beginnings to that of the Jews in Antiochus's time: They compared king Philip to Antiochus Epiphanes, and the prince of Orange to Judas Maccabæus. But I saw much clearer into the matter by an original letter of king James, which a worthy gentleman sent me. I knew his hand well, the letter is in print; but I will read some particulars out of it. It is directed to Dr. Abbot, afterwards archbishop of Canterbury. It begun with censuring some positions concerning a king in possession, the same with our modern term of a king *de facto*: he goes on in these words: 'My reason of call-'ing you together, was to give your judgments, 'how far a Christian and a Protestant king, 'may concur to assist his neighbours to shake 'off their obedience to their own sovereign, 'upon the account of oppression, tyranny, or 'what else you like to name it. In the late 'queen's time, this kingdom was very free in 'assisting the Hollanders, both with arms and 'advice; and none of your coat ever told me, 'that any scrupled about it in her reign. Upon 'my coming to England, you may know, it 'came from some of yourselves to raise scru-'ples about this matter; yet I never took any 'notice of these scruples, till the affairs of Spain 'and Holland forced me to it. I called my clergy 'together, to satisfy not so much me, as the 'world about us, of the justness of my owning 'the Hollanders at this time. This I need not to 'have done, and you have forced me to say, I 'wish I had not.' He reflects on those, who had a great aversion to the notion of God's being the author of sin, which plainly points at Dr. Overall, who was the first man of note among us, that opposed the Calvinist doctrine of predestination; yet, he says, 'They had gone to the 'threshold of it, by saying, that even tyranny 'was God's authority, and should be reverenced 'as such.' He concludes, 'these were edged 'tools, and that therefore they were to let them 'rest.' Here is a full account of king James's thoughts of this matter, which was then the chief subject of discourse all Europe over. He had 12 years before this shewed, on an eminent occasion, that he owned the States, when he invited them in the year 1593, to christen his eldest son, prince Henry. They were sensible of the great honour done them by it; and though they were then but low, they sent an embassy, with a noble present of gold plate, to assist on that occasion. This negociation stuck for several years, the Spaniards refusing to own them in express words: the temper found was, they were treated with *(tamquam)* as with free states; and the matter went no further at that time, than a truce for some years, which was concluded in the year 1609. This lets us see, that the words in king James's speech that year to his parliament, were not chance words that fell carelessly from him. 'A king leaves to be

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'a king, and degenerates into a tyrant, as soon 'as he leaves off to govern by law: in which 'case the king's conscience may speak to him, 'as the poor woman to Philip of Macedon, Ei-'ther govern by law, or cease to be a king.'

"There is another eminent instance towards the end of that reign, that shews what the sense of our best divines was in this matter: When the archbishop of York's son, and Mr. Wadsworth, had changed their religion in Spain, Wadsworth writ over a bold defence of that; and, among other things, charged the Reformation with rebellion. This was answered by one of the best books of that time, writ by Dr. Bedell, dedicated to the prince of Wales, who afterwards promoted him to a bishopric. His words on this head are full; I will read some of them. 'Do you think subjects are bound to 'give their throats to be cut by their fellow sub-'jects, or to their prince, at their mere wills, 'against their own laws and edicts? You would 'know, *quo jure*, the Protestants' wars in 'France and Holland, are justified: First, The 'law of nature, which not only alloweth, but 'inclineth and enforceth every living thing, to 'defend itself from violence. Secondly, That 'of nations, which permitteth those who are 'in the protection of others, to whom they owe 'no more than an honourable acknowledgment, 'in case they go about to make themselves ab-'solute sovereigns, and to usurp their liberty, 'to resist, and stand for the same. And if a 'lawful prince, who is not yet lord of his sub-'jects' lives and goods, shall attempt to despoil 'them of the same, under colour of reducing 'them to his own religion, after all humble re-'monstrances, they may stand upon their own 'guard, and being assailed, resist force with 'force, as did the Maccabees under Antiochus. 'In which case, notwithstanding, the person of 'the prince himself ought always to be sacred 'and inviolable, as was Saul to David.' No commentary is wanted here.

"My Lords; You see how this matter stood during king James's reign. In the first year of king Charles's reign, Grotius's book, 'De Jure Belli et Pacis,' was published at Paris, dedicated to the king of France, while France was under the administration of the wisest and most jealous minister of the last age, cardinal Richelieu. In that book, in which he asserts the rights of princes with great zeal, yet he enumerates many cases, in which it is lawful to resist, particularly that of a total subversion: and that book is now, all Europe over, of the highest reputation of any book that the modern ages have produced. In the beginning of king Charles's reign, a war broke out in France, against the Protestants; upon which he sent over ambassadors, by whose mediation a peace was concluded; but that being ill kept, the war broke out again; and the king thought himself bound by his mediation, to protect the Protestants. So in the second session of parliament, 1628, in the demand of a supply that the lord keeper Coventry made, in the king's name, these words are to be found: 'France is swayed 'by the Popish faction; and though by his 'majesty's mediation, there were Articles of 'Agreement between that king and his sub-'jects, that treaty hath been broke, and those 'of the reformed religion will be ruined, with-'out present help.' Upon this the Commons petitioned the king for a fast, and desired the concurrence of the Lords, who joined with them in it. The king granted it, and an office was composed suitable to the occasion; in which, among other devotions, the nation was directed to pray for all those, who here, or elsewhere, were fighting God's battles, and defending his altars. Thus the whole body of the legislature did concur for a fast for that, which, if this doctrine is true, was no better than rebellion; and yet the whole nation, clergy and laity, were required to pray for success in it.

"But to compleat this view of the doctrine of our church, it is to be considered, that when a year before this, while the loan, or benevolence, were carried on, some officious divines made use of those expressions of kings having their power from God, importing an authority of a nature superior to the laws of the land: One of these, Dr. Manwaring, was impeached, and had a severe sentence passed on him for it. So I have now made it out, beyond, I hope, the possibility of contradiction, that, for 70 years together, from 1558, to 1628, the lawfulness of self-defence, in the case of illegal and violent cruelty, was the public and constant doctrine of this church.

"These were the best and happiest times of our church, as is often repeated by the earl of Clarendon: From these we ought to take the standard of our doctrine.

"I go next to show what was the common doctrine for the next 60 years, from 1628, to 1688. I must yield up the first 12 years: For upon the unhappy misunderstanding between the king and the parliament, there was a long discontinuance of parliaments; then the late condemned doctrine was again in vogue; and nothing was so much heard of, as the law of government that was from God, antecedent to all other human laws: out of this sprung illegal imprisonments, illegal monopolies, severe proceedings in the Star-Chamber, but above all, the Ship-money. These things put the nation in an universal disjointing and feebleness. And when an unavoidable necessity forced that king to call a parliament, the fatal effects of those counsels broke out terribly. I know many fancy, that the war is to be charged on the principles of self-defence: They are much mistaken. I had occasion to see a great way into the secret of that time, when I examined the papers relating to the two dukes of Hamilton. I knew a great deal more since, from two persons of unquestionable integrity, who knew the secrets of that time, the lord Hollis, and sir Harbottle Grimstone; but all received a full confirmation, when I found it agreed perfectly with the noble account given the earl of Clarendon.

"Nobody dreamt of a war, nor had they

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any principles leading to it. But there was an unhappy train of accidents, that hindered matters from being brought to a settlement, even while the king was granting all they could desire. Stories were carried by persons about both the king and queen, or words let fall, that made them conclude, that there were still ill designs on foot, against the laws that were then passed. But that which brought all to a crisis, was the discovery of a negotiation, to engage the army to declare against the parliament. Whosoever compares the depositions in Rushworth with the account given of that matter by the earl of Clarendon, will see there is a great deal more in the one, than the other is willing to believe; though he acknowledges they had both Goring's evidence, and Piercy's letter with them. I will not take it upon me to determine, whether they believed too much, or the earl of Clarendon too little. It is certain they believed all that was in the depositions, and a great deal more: For Goring being continued in the government of Portsmouth, and his father being advanced from being a baron, to be an earl, and Piercy's being made a lord and master of the horse to the prince of Wales, made them conclude they had suppressed a great deal, instead of saying more than was true. This struck deep in their hearts, and at last fatally broke out in the demand of the militia, that brought on the war, which, I do own, was plainly a Rebellion, because a force was offered to the king, not to defend themselves from an unjust invasion, or illegal grievances, but to extort a new law from him.

"Thus the true occasion of the war, was a jealousy, that a conduct of 15 years had given too much ground for; and that was still unhappily kept up, by a fatal train of errors in every step that was made. The great concussion that the war gave the nation, and the barbarous effusion of so much blood, especially of the royal blood of that blessed king, had, at last, a happy, though a late conclusion in the Restoration: And it is no wonder if such a series of tragical events, begot a general horror at the occasion of them. But then it was, that had it not been for the firmness of the earl of Clarendon to his English principles, the liberties of the nation had been delivered up.

"It is to his memory, that we owe our being a free people; for he, with his two great friends, the duke of Ormond, and the earl of Southampton, checked the forwardness of some, who were desirous to load the crown with prerogative and revenue. He stopt all this, which being afterwards odiously represented, brought on him that great and lasting, but honourable disgrace. The earl of Southampton, whose death went a little before his fall, and perhaps hastened it the sooner, said to many about him, that he was a true Protestant, and an honest Englishman; and that the nation would feel the effects of his being removed, whensoever it might happen.

"That Lord, in the great settlement after the Restoration, would carry things no farther, than to repeal what had been extorted by the tumults; and in the matter of the Militia-Act, and the oaths relating to it, all was more cautiously worded, than is commonly understood. To the word 'commissioned by the king,' some, indeed, moved, that the word 'lawfully' might be added, to make all plain. That was pressed in the House of Commons by Vaughan, afterwards lord chief-justice of the Common-Pleas. The Attorney-general, afterwards Lord Chancellor Nottingham, answered, that was not necessary; for the word Commission imported it; since, if it was not lawfully issued out, to lawful persons, and for a lawful reason, it was no Commission; and the whole House assented to this; yet in the House of Lords, the same word lawfully, was pressed to be added by the earl of Southampton, who was answered by the earl of Anglesey to the same purpose, with what had been said in the House of Commons: he, indeed, insisted to have the word added, because it would clear all difficulties with many, who not having heard of the sense given in both Houses, might fancy, that any sort of Commission being granted, it would not be lawful to resist it. He did not prevail; for it was said, that this explanation being the sense of both Houses, it would be soon spread and known over the nation. In this sense, it is certain, that it is not lawful to take arms against any so commissioned by the king; for that were to take arms against the king's commission in the execution of the law, which is certainly a resisting the Ordinance of God, which whosoever do, they shall receive to themselves damnation.

"It was no wonder, if after such a war, the doctrine of Non-resistance was preached and pressed with more than ordinary warmth, and without any exceptions; yet some still kept these in view; so did both Dr. Falkner and myself; and I know many others had them always in their thoughts, though they did not think it necessary to mention them.

"I found the ill effects, that the carrying this matter so far, had on the mind of that unfortunate prince, king James; for in the year 1673, when he was pleased to admit me to much free conversation with him, among many other things, I told him, it was impossible for him to reign in quiet in this nation, being of that religion; he answered me quick, Does not the Church of England maintain the doctrine of Non-resistance and Passive Obedience? I begged of him not to depend on that; for there was a distinction in that matter, that would be found out when men thought they needed it. I now come to tell your lordships, how right I judged.

"It is true, they passed a very pompous decree at Oxford 1683, but you shall hear how long they stood to it. In summer, 1686, the prince of Orange was pleased to receive me into his service with a particular confidence. Soon after the ecclesiastical commission was

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set up, and upon some proceedings before that board, he was desired from England to break with king James upon that head. I opposed this, and said, I was convinced, that commission was against law, and would have ill effects, but it did not strike at the whole. This was more warmly pressed upon the proceedings against Magdalene college. I still stood up to my ground; and told both prince and princess, that if a breach should follow on these matters, I could not serve. When indeed the declaration was published a second time, with a resolution to have it carried through; and that many laws were dispensed with at pleasure; and persons who were under legal disabilities, were made judges, sheriffs and magistrates; all whose actings were so many nullities: then I thought here was a total subversion of our constitution; which from being a legal one, was made precarious, subject to mere will and pleasure. So I was ready to serve in the Revolution.

"Some days after we came to Exeter, sir Edward Seymour came thither, and he presently sent for me: when I came to him, he asked me, why were we a rope of sand, and had not an association? I said, because we had not yet a man of his weight to begin the motion: he said, if we had not one by to-morrow, he would leave us before night. I presently saw a noble duke now in my eye, and acquainted him with this; he went to the prince, who approving of it, an Association was prepared, and laid on the table next morning; and was after that signed by all who came to wait on the prince. Three days after we left Exeter, a head of a college came to the prince, to invite him to come to Oxford, assuring him, that the University would declare for him. He went as near it as Abingdon, but then the sudden turn of affairs at London obliging him to haste up, the Association was sent thither, and was signed by the heads of the colleges, and many others there; some doing it in a particular warmth of expression, and saying, that their hearts, as well as their hands went with it. Upon what disappointments or other views, I cannot tell, this contradiction to their famed decree, five years after it was made, seemed to take another turn back to it again; and the notion of a king *de facto*, which is but a softer word for an usurper, came in vogue.

"The parliament to prevent the ill effects of that studied to secure the government, first, by an association, and then by an abjuration. I, who was always against every thing that might break in upon conscience, was for making these only voluntary; but they were enacted, and they were generally taken. A noble lord on the earls' bench, procured me the sight of a letter, that went about to persuade the taking the abjuration, that he had from a place where he believed it had its effect; where I found this distinction, that the abjuring any right whatsoever that the Pretender might claim, was only meant of a legal right, and that it had no relation to birth-right, or to divine right. This agreed, with a report that went then current, that a person, in a great post, sent a message to an honourable gentleman, who would not take the abjuration, that if he had an half hour's discourse with him, he doubted not to be able to convince him, that he might take the abjuration, without departing from any of his principles. Towards the end of the last reign, a bold attempt was made on the king's supremacy by an incendiary who is supposed to have no small share in this matter now before your lordships: but the attack on the supremacy being liable to a premunire, it was turned with much malice, and managed with great prevarication against the bishops, who adhered firmly to their duty to the king. How great a disjointing that has brought on this church, is too visible all the nation over, and it tends to carry on the wicked design of distracting the church, and undermining the government.

"By the time the queen was on the throne or soon after, the Rehearsal began to be spread over the nation, two of them a week, which continued for several years together, to be published without check or controul; it was all through one argument against the queen's right to the crown; that, though it was diversified with incidents and digressions, was kept always in view. The clergy were in many places drawn into subscriptions for this paper. This looked like a design long connived at, to have the queen's title undermined: besides this, we had a swarm of pamphlets every year to the same purpose and, as was believed, writ by the same hand. One sold at the door of the House, with the title of King William's Exorbitant Grants, did plainly call him an usurper; and starting an objection against the queen's possessing the throne, gave it this answer, that she did well to keep it till she could deliver it up to the righteous heir. At that time there was quick prosecution of a paper published, with the title of The Shortest Way with the Dissenters; and upon that, I brought that pamphlet to a great minister, and offered to shew him this passage in it, to see if there should be a prosecution of this ordered. He turned from me; so whether he heard me or not, I cannot tell: I am sure, if he says he did not I will believe him. No prosecution followed, and the Rehearsal went on. The clergy in many places, met at a coffee-house on Saturdays, to read the Rehearsals of the week, which had very ill effects in most places. I know it may be said, that the queen's learned counsel ought to have looked after these things: but we all know that they stay till they receive orders from the ministry. The course of that treasonable paper has been now for some time stopt, so we see there is some change in the ministry.

"But to compleat the insolence of the enemies of the queen and of the protestant succession; they had the impudence to give it out that the queen secretly favoured them: and

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as this, we all know, has been long whispered about among us, so it was more boldly given out in Scotland, which obliged one of the queen's ministers in that parliament, in a speech that was printed, to contradict this treasonable and dishonourable suggestion. That as some divines would have it, that there was in God a secret, as well as a revealed will, and that these might be contrary to one another; so they would fasten an imputation on the queen that while she revealed her will one way, she had a secret will another way; which he solemnly affirmed to be false, and highly injurious to the queen.

"While the pamphlets and these reports were thus set about, Mr. Hoadly thought that it became him to assert the queen's title by justifying the Revolution, out of which it rises. But what an outcry was raised on this, that one durst disturb the progress of a wicked opinion, that was visibly designed to overturn the government: and yet he asserted nothing, but what the counsel for the prisoner did all fully and plainly own, that in the cases of extreme necessity, an exception to the doctrine was to be admitted, and that that was the case at the Revolution.

"But as these notions have been long let run among us; so they have appeared in a most violent and unguarded manner, ever since the attempt of the Pretender, and more of late, since the preliminaries upon the overtures for a peace, seem to extinguish their hopes. What sermons on this head are preached in this city at assizes, at Bath, and at many cathedrals? Furious men fit themselves with some hot sermons, which they carry about from place to place, to poison the nation. This has not only the visible effect designed by it, of shaking many in their allegiance to the queen, and in their adhering to the Protestant Succession; but it has a cursed effect on many others, on whom this their design does not succeed.

"I am very sensible there is a great deal of impiety and infidelity now spread through the nation: this gives every good mind all possible horror; but I must tell your lordships, on what a great part of it is founded; for since my conversation with Wilmot, earl of Rochester, I have had many occasions to discourse with persons tainted with those wicked principles, and I do affirm it, that the greatest prejudice these persons have at religion, at the clergy, and at the public worship of God, is this, that they say, they see clergymen take oaths, and use all prayers, both ordinary and extraordinary, for the government, and yet in their actings and discourses and of late in their sermons, they shew visibly that they look another way; from whence they conclude they are a mercenary sort of people without conscience.

"I hope there are not many that are so corrupted and so scandalous: I am sure I know a great many that are far otherwise, who preach, speak, and act, as they swear and pray; but those who act in another way, are noisy and impudent, and so bring an imputation on the whole body; and unless an effectual stop is put to this distemper, it is not possible to foresee all the ill consequences that may follow upon it.

"I have, I am afraid, wearied your lordships; but I thought it was necessary, once for all, to enlarge copiously on this argument: and now to come close to the Article, and the Sermon, for I meddle not at all with the person of the man; whatever general expressions might very well have been used, in setting forth passive obedience and non-resistance before the Revolution, because odious cases ought not to be supposed, and therefore are not to be named; yet since resistance was used in the Revolution, and that the late king invited all the subjects to join with him, which was in them certainly resistance; and since the lawfulness of the Revolution is so much controverted, the condemning all resistance in such crude and general terms, is certainly a condemning the Revolution: and this is further aggravated from those limitations on our obedience, in an act passed soon after the Revolution, by which, in case our princes turn Papists, or marry Papists, the subjects are, in express words, discharged from their allegiance to them. Certainly this puts an end to the notion of non-resistance in any case, or on any pretence whatsoever: For these reasons, I think the first Article of this Impeachment, is both well-grounded, and fully made out."

Several other peers, particularly the duke of Devonshire, the lord-chancellor, and the lords Somers, Halifax, and Mohun, spoke also in vindication of the late Revolution; and maintained, that in extraordinary cases resistance is necessary and lawful; and concluded, that the Commons had made good the first Article. The archbishop of York, the duke of Buckingham, the earls of Nottingham and Rochester, the lords Guernsey, North and Grey, and Caermarthen, and the bishops of London, Rochester, and Landaff, who spoke on the other side, declared, "That they never read such a piece of madness and nonsense, as Dr. Sacheverell's sermon, but did not think him guilty of a misdemeanor." After a long debate, which lasted till past nine in the evening, it was at last carried by a majority of 19, That the Commons had made good their first Article of Impeachment against Dr. Sacheverell.

March 17. The Lords took into consideration the Second Article of the Commons' Impeachment.

The Bishop of *Lincoln* (Dr. Wake*) began the debate with the following speech:

* "William Wake, an eminent prelate, born at Blandford, Dorsetshire, 1657. He was in 1672 admitted at Christ-church, and when in orders he became preacher to the Grays-inn society. In 1689 he took his degree of D. D. and was appointed deputy clerk to the closet, and chaplain to William and Mary, and soon after canon of Christ-church, in 1694 rector of St. James's Westminster, dean of Exeter 1701,

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"My lords; It was the misfortune of some of our bench, that in the prosecution of the foregoing Article of this Impeachment, a noble lord, who spoke very early to that point, was pleased not only to anticipate our judgment in that particular; but to do it with this pretty hard reflection; that in giving it, as he supposed we would, we should vote contrary to our own doctrine. It is not improbable but that, in the course of the present debate, another arrow may be drawn out of the same quiver to shoot at us; and we may be told, that in defending of the Toleration granted by law to the dissenters, we shew ourselves to be apostates from our own order. But from both these imputations I am persuaded both our writings and our actions, will secure us in the judgment of all indifferent persons.

"The substance of this Second Article of the Impeachment, which your lordships are now about to enter upon, is this: "That Dr. S. in his Sermon, doth suggest and maintain, that the Toleration, granted by law, is unreasonable, and the allowance of it unwarrantable. That he is a false brother with relation to God, religion, or the church, who defends Toleration, and liberty of conscience. That queen Elizabeth was deluded by archbishop Grindal to the Toleration of the Genevian discipline: And that it is the duty of superior pastors to thunder out their ecclesiastical anathemas against persons intituled to the benefit of the Toleration; and insolently dares, or defies, any power on earth to reverse such sentences." This, my lords, is the sum of this part of the Commons' charge against Dr. S. and I think the managers have fully made it out; not by bare intendments, by unnecessary implications, and forced constructions; not by piecing together broken sentences, and conjoining of distant, and independent passages (as he has unjustly complained;) but by the plain words, and necessary meaning, of a very great part of his discourse.—But before I trouble your lordships with the proof of this, give me leave, upon this occasion, (though it be no part of the Impeachment laid against the preacher) to observe to your lordships what a strange account he has thought fit to publish of that other popular engine, which, he says, has been made use of, to pull down the church, and which he calls by the name of 'comprehension.'—The person who first concerted this supposed design against our church, was the late most reverend Dr. Sancroft, then archbishop of Canterbury. The time, was towards the end of that unhappy reign, of which so much was said upon the occasion of the foregoing article. Then, when we were in the heighth of our labours, defending the church of England against the assaults of popery, and thought of nothing else; that wise prelate, foreseeing some such Revolution as soon after was happily brought about; began to consider how utterly unprepared they had been at the restoration of king Charles the 2d, to settle many things to the advantage of the church; and what a happy opportunity had been lost for want of such a previous care, as he was therefore desirous should now be taken, for the better and more perfect establishment of it. It was visible to all the nation, that the more moderate dissenters were generally so well satisfied with that stand which our divines had made against popery, and the many unanswerable treatises they had published in confutation of it, as to express an unusual readiness to come in to us. And it was therefore thought worth the while, when they were deliberating about those other matters, to consider at the same time what might be done to gain them, without doing any prejudice to ourselves.—The scheme was laid out, and the several parts of it were committed not only with the approbation, but by the direction of that great prelate, to such of our divines as were thought the most proper to be intrusted with it. His grace took one part to himself: Another was committed to a then pious and reverend dean, afterwards a bishop, of our church. [Dr. Patrick bishop of Ely.] The reviewing of the daily service of our Liturgy and the Communion book, was referred to a select number of excellent persons, two of which are at this time upon our bench [the archbishop of York, and bishop of Ely;] and I am sure will bear witness to the truth of my relation. The design was, in short, this: To improve, and, if possible, to enforce our discipline; to review, and enlarge our Liturgy; by correcting of some things, by adding of others; and, if it should be thought advisable by authority, when this matter should come to be legally considered, first in convocation, then in parliament by leaving some few ceremonies, confessed to be indifferent in their natures, as indifferent in their usage, so as not to be necessarily observed by those who made a scruple of them; until they should be able to overcome either their weaknesses, or prejudices, and be willing to comply with them.—How far this good design was not only known to, but approved of by the other fathers of our church; that famous

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bishop of Lincoln 1705, and translated to Canterbury Jan. 1715-16. He was engaged 1697 in a severe controversy with Atterbury with respect to the rights of convocation, but though several of the clergy entered the lists on both sides, the State of the Church and Clergy of England, &c. fol. by Dr. Wake, was the most masterly, luminous and satisfactory performance published on the subject. In other writings he also ably vindicated the Church against the Papists, and while he earnestly wished in his discourses, and in his correspondence, to form an union between the churches of England and France, he was indefatigable in supporting the rights and tenets of Protestants. This truly learned and virtuous man died at Lambeth 24th Jan. 1736-7, leaving several daughters. Besides his controversial works he published a translation of the epistles of the Apostolical Fathers, 8vo—Exposition of the Church Catechism, often edited—Tracts against Popery—Sermons and Charges." Lempriere.

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petition for which seven of them were sent to the Tower, and which contributed so much to our deliverance, may suffice to shew. The 'willingness they there declared of coming to such 'a temper as should be thought fit with the 'dissenters, when that matter should be considered, and settled, in parliament and convocation;' manifestly referred to what was then known to several, if not all of the subscribers, to have been at that very time under deliberation. And that nothing more was intended than I have before said, is as evident from what was publicly declared in a treatise purposely written to recommend the design when it was brought before the two Houses of Parliament, in the beginning of the late reign; and licensed by the authority of a noble peer, now present, who was at that time Secretary of State: In the very beginning of which there is this remarkable passage, which I shall beg leave to read to your lordships *: 'No alteration that 'I know of, is intended, but in things declared 'to be alterable by the church itself. And if 'things alterable be altered upon the grounds 'of prudence and charity: and things defective 'be supplied; and things abused be restored 'to their proper use; and things of a more ordinary composition revised and improved; 'whilst the doctrine, government, and worship 'of the church remain entire, in all the substantial parts of them; we have all reason to 'believe that this will be so far from injuring 'the church, that on the contrary, it shall receive a very great benefit by it.'

"And now, my lords, let any impartial person consider, what was there in such a design that could be justly esteemed prejudicial to the constitution of our church? Wherein would our canons have suffered, if those already made, had been more strongly enforced; and some new ones had been added for the reformation of manners; for the better punishing of notorious offenders; and to render our public discipline more strict, and severe? This we have been wishing for ever since the Reformation: What harm would it have done our church had it now been effected? Or how would our excellent Liturgy have been the worse, if a few more doubtful expressions had been changed for plainer, and clearer; and a passage, or two, which however capable of a just defence, yet in many cases seem harsh to some even of our own communion, had either been wholly left at liberty in such cases, to be omitted altogether: or been so qualified as to remove all exception against them in any case. If such collects, as are not yet adapted to the festivals, or gospels, to which they belong; had been made more full, and apposite to both: If some of the occasional offices had been enlarged; and new ones added: if for example, there had been a greater variety of prayers, psalms, and lessons appointed by authority, instead of the compositions of private persons now necessarily to be used, for the visitation of the sick; and new forms composed for the use of prisoners for debt or crimes: For the greater solemnity of receiving proselytes into our church; Of reconciling penitents to it; and of casting notorious offenders out of it. These were some of the main things that were then designed: As for any favour to the dissenters, none, that I know of, was intended, but what should have been entirely consistent with our own constitution: And I hope it will not be thought any crime for the bishops, and clergy of our church, to be willing to enlarge its communion, by any methods which may be likely to gain others, and yet not injure our own establishment.

"But to satisfy your lordships that nothing could have been designed to the detriment of the church; Be pleased farther to consider, how what was thus at first projected in private, by select persons, and in a difficult time, when no countenance was to be expected from authority to any such purpose; was afterwards, if ever, to have been brought to maturity. And this being a matter of public notice, the relation of it will admit of no exception.

"No sooner were their late majesties, of glorious memory, seated in their thrones, but this design was openly espoused by them. A commission was issued out under the great seal of England, to a large number of bishops, and other eminent divines, to meet together, and to consider of these matters. What they did, having not had the honour to be one of them, I shall not presume to say. This we know, that whatever they did, it was to have been carried on from them to the two convocations of Canterbury and York: And after it should have passed their approbations, it was finally to to have been laid before the two Houses of parliament, and so to have gone on to the royal assent. This, my lords, was the course through which all that was designed, or should have been done in this matter, must have passed; and I am persuaded nothing very injurious to our church's welfare, will ever be able to pass through all these.

"Having thus given your lordships a true account, of that design which Dr. S. mentions under the name of 'comprehension;' I doubt not but that your lordships will now be amazed to hear, what a false and scandalous report he has made of it. In the 16th page of his Sermon he thus speaks of it: 'The worst adversaries of 'our church,' says he, 'were to be let into her 'bowels under the holy umbrage of sons; who 'never believed her faith; own'd her mission; 'submitted to her discipline; or complied with 'her Liturgy. For the admitting of this Trojan 'horse, big with arms and ruin, into our holy 'city, the straight gate was to be laid quite 'open; Her walls and enclosures to be pulled 'down; and a high-road made in upon her 'communion. Her articles to be taught the 'confusion of all senses, nations and languages.'

* A Letter to a Member of Parliament in favour of the bill for Uniting Protestants: Licensed by the command of the earl of Shrewsbury; April 1, 1689, Ja. Vernon. p. 2.

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"This, my lords, is a very strange representation of so good a design, as that I before recounted to your lordships. Yet this representation did this bold man, as confidently, as falsly make of it in the house of God; and publish to the view of the whole nation. For thus he goes on: 'This pious design of making our 'house of prayer a den of thieves, of reforming 'our Church into a chaos; is well known to 'have been attempted several times in this 'kingdom, and lately within our memory; 'when all things seemed to favour it but that 'good providence which so happily interposed 'against the ruin of our church, and blasted the 'long projected scheme of these ecclesiastical 'Achitophels.' To say nothing more on the design itself, of which I have given an account before. Pray my lords, who were the Achitophels that projected it; and must have concurred to the execution of it? I have already named the first, and chiefest of them, the late archbishop Sancroft. The next who openly approved of it, were the commissioners who met upon it in the Jerusalem Chamber; A set of men, than which this church was never, at any one time, bles'd with either wiser, or better, since it was a church; Who it was that presided in the convocation of this province, to which this project was next to be referred; and who, had it gone on, must have had a chief hand in the management of it, I need not say [The late lord bishop of London.] Every one who knows any thing at all of his character; (and I am sure your lordships are none of you strangers to it) knows him to be too good a friend to the establishment of our church; to have been capable of being engaged in such a villainous design, as Dr. S. pretends, for the subversion of it. Or had he been otherwise, yet still the major part of that venerable body must have been as great Achitophels as himself, or no harm could have been done by him. Pardon me, my lords, if the course of my argument obliges me to rise yet one degree higher, and to say that the like majority of your lordships, and of the House of Commons, together with his late majesty, must all have come into the plot against the church; or all the skill, and malice, of the inferior Achitophels, would have signified nothing. And what censure that man deserves who has the confidence to insinuate to the world, that the bishops, the other clergy, the convocations; the parliament, nay, and the late king himself, our glorious deliverer; or at least the greater part of all these, were engaged in a project so monstrous, so romantic and absurd, (for here I am content to use his own expressions) 'that it is hard to say whether it had more of 'villainy, or folly, in it.' I shall submit it to your lordships to consider. All I design in taking notice of this part of his Sermon, is only to clear the memory of many excellent persons who are dead; to vindicate the reputation of some still living, and in the highest stations of the church; from that load of infamy which this rash man has with so much virulence of speech cast upon them: And to let your lordships see that nothing was intended in all that affair but what was both honourable to those who engaged in it; and I am persuaded would have been for the interest and peace of our church and state, had it been accomplished.

"I come now to that which is the proper subject of the present debate; namely to offer such passages to your lordships, as I humbly conceive do plainly and fully make out the second Article of the Commons' Impeachment against the preacher; and prove him to have spoken with more freedom than he ought, not only of the dissenters themselves, but of the Toleration, or (as he had rather we should call it) the indulgence granted by law to them.—And here, as I remember, it was not denied either by his counsel, or himself, but that he had spoken, and spoken with warmth too, against Toleration. The only question is, what the Toleration is against which he spake? Whether it was that which has been granted by law to the dissenters? Or whether it was only against a general Toleration of Atheists, Deists, Socinians; men of no principles, perhaps of no religion? Or at most against such of the dissenters as abused the indulgence granted them by law; and made use of it to purposes not at all warranted by it. The former of these the Commons charge upon him: The latter he pretends; the better to clear himself of their charge.—To determine this point, I must in the first place beg leave to observe; that among the several sorts of false brethren, enumerated by the preacher with relation to God, religion or the church; the second kind is of those, who give up any point of the church's discipline and worship, page 8. To this he adds, that those are false-brethren who defend Toleration, and Liberty of Conscience. And that we may the better know what Toleration, and Liberty of Conscience, he means; He specifies the very persons to whom he refers, and of whom he speaks; the dissenters: If, says he, 'to comply with the dissenters both in public 'and private affairs, as persons of tender con-'science and piety, to promote their interest in 'elections, to sneak to them for places and pre-'ferment, to defend Toleration and liberty of 'conscience, and under the pretence of mode-'ration, excuse their separation, are the crite-'rions of a true churchman; God deliver us 'all from such false brethren.' The Toleration therefore, and Liberty of Conscience, against which he speaks, must necessarily be that of the dissenters; those who separate from our church: He names no others; but carries the same persons through his whole sentence, both before and after those expressions. Either therefore it is no reflection upon the act of indulgence to say that all those who defend the Toleration of the dissenters, and are for allowing liberty of conscience to them, are false brethren with relation to God, religion, or the church, page 6, 7, and such against whom we ought to pray to God to deliver us all, page 8: Or if this cannot with any reason be either said, or supposed, then it must remain, that Dr. S.

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has here said what the Commons charge him withal; and that in express terms, viz. That he is a false brother who defends the Toleration, not of Deists, Socinians, and I know not what monsters of irreligion, but of the Dissenters. Those same Dissenters who by the act of Indulgence have a right to that liberty of conscience of which this gentleman speaks so very hardly; and prays God to defend us from all such false brethren as shall presume to excuse it.

"But not to insist upon a single passage which may be supposed to have dropt unwarily from him. In the second part of his Sermon, he proceeds to shew the great perils and mischiefs of those false brethren, against whom he was before speaking, both to the church and state: pag. 15. And that these again are the same persons who have a right to the legal indulgence is so very clear, that I do not see how it is possible for any one to make the least doubt of it. p. 18. He describes them as occasional conformists to the church. pag. 19. As those who had the old leaven of their forefathers still working in them: and, in the next sentence, he expressly takes notice of the religious liberty which our gracious sovereign has indulged them. This in the very same sentence he calls their Toleration; (for the Doctor himself is not tied up to any niceties of expression; He may call it so, though others may not:) These are the persons, and the only persons, of whom he speaks in all that part of his discourse; let us see what he says of the indulgence granted by law to them.

"And first he tells us, page 18. 'That it 'cannot be denied, but that though they do 'submit to the government, their obedience is 'forced, and constrained; and so treacherous, 'and uncertain, as never to be trusted. That 'they are as much occasional loyalists to the 'state as they are occasional conformists to the 'church; and will betray either whenever it is 'in their power, and they think it for their advantage. That nothing but a Scottish infatuation can so far blind our eyes and our judgments, as to make us believe that the same causes should not produce the same effects; 'that the same latitudinarian and republican 'notions, should not bring forth the same rebellious and pernicious consequences. That we 'shall be convinced to our sorrow, if we do not 'apprehend that the old leaven bread of their 'fore-fathers is still working in the present generation; and that this traditional poison still 'remains in this brood of vipers to sting us to 'death. That they have advanced themselves 'from the religious liberty which our gracious 'sovereign has indulged them, to claim a civil 'right; and to jostle the church out of her 'establishment, by hoisting their Toleration 'into its place. That to convince us what alone 'will satisfy them, they insolently demand the 'repeal of the Corporation and Test acts, which, 'under her majesty, is the only security the 'church has to depend upon: And which (if 'we may believe him,) they have so far eluded by 'their abominable hypocrisy, as to have undermined her foundations, and endanger the government, by filling it with its professed enemies.', His meaning is plainly this; that the dissenters, whom we are so foolish as to indulge, are a parcel of false and treacherous persons; enemies both to our church and state; and such as if not timely suppressed will convince us to our sorrow of the weakness and folly, of taking such vipers into our bosom, as watch only for a fair opportunity to sting us to death.

"But what then must we do to secure ourselves against these dangerous enemies? Why first, the Doctor assures us, that they are never to be gained by any favour that can be shewed to them. 'That he must be very weak, or something worse, that thinks or pretends, that the 'dissenters (for of these he still speaks) are to 'be won over by any other grants and indulgences than giving up our whole constitution.' This shews the folly of trying the soft way of indulgence with them: and therefore he concludes; that 'He who recedes the least 'tittle from it (our constitution) to satisfy, 'or ingratiate with, these clamorous, insatiable, church-devouring malignants, knows 'not what spirit they are of; or he ought 'to shew who is the true member of our 'Church.'

"This I think comes fully up to what is objected against him; namely, that Doctor S. does in his Sermon suggest and maintain, 'That the Toleration granted by law is unreasonable, and the allowance of it unwarrantable.' For so it must needs be, if the dissenters be such men as he tells us they are; and will be satisfied with nothing less, than he assures us they will. And yet what next follows, is, if possible, still more express to the same purpose. It is objected against him by the Commons, that he had affirmed in his Sermon, that "Queen Elizabeth was deluded by 'arch-bishop Grindal, (whom he scurrilously 'calls a false-son of the Church, and a perfidious prelate;) to the toleration of the Genevian discipline.' The fact is not denied; but the expressions are excused; and the truth of the allegation is endeavoured to be made out by historical memoirs: and it is hoped that your lordships will not account it a high crime and misdemeanor, to have spoken too hardly of a prelate who has been so many years in his grave.

"I am, my lords, very far from thinking, that the Commons ever intended to charge Dr. S. as guilty of high crimes and misdemeanours, for speaking scandalously of that good archbishop. Their concern was not for his person, what respect soever they may have had (as all true friends of the Reformation must needs have a very great one) for his memory. But the truth of the matter is this. The preacher complains, page 19, of this Sermon; that queen Elizabeth was deluded by archbishop Grindal, to the Toleration of the Genevian discipline. 'He

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'adds, that the archbishop was a perfidious 'prelate, for deluding her to tolerate that 'discipline. That she found it such a head-'strong and encroaching monster, that in 'eight years she saw it would endanger the 'monarchy as well as the hierarchy: and like 'a queen of true resolution, and pious zeal for 'both, she pronounced that such were the 'restless spirits of that factious people, that 'no quiet was to be expected from them, 'till they were utterly suppressed. That this 'therefore, like a prudent princess, she did by 'wholesome severities; and the effect was, 'that by this means the crown for many years 'sat easy and flourishing on her head. But 'that her successor king James, did not follow 'her wise politics:' and the result was as deplorable on his side, as it had been glorious on hers. For by this means, 'His son fell a 'martyr to their fury: his unhappy offspring 'suffered such disastrous calamities, as made the 'royal family one continued sacrifice to their 'malice.' And all this for want of those wholesome severities which the wise queen his predecessor had used utterly to suppress that factious people.

"This, my lords, is the Doctor's narrative, and I have given it you in his own words. The application is plain, and home. The dissenters are now again tolerated, as they were heretofore under queen Elizabeth. There is a perfidious prelate (perhaps in his opinion a great many) who, like archbishop Grindal, help to delude another queen, into the Toleration of them. These eight years past (for the very number of years is remarkable) her majesty has borne the restless spirits of this factious people: and had no quiet from them. It is now high time for her to alter her measures, as queen Elizabeth wisely did. It is the only way to make the crown sit easy, and flourishing upon her head. And if this be not plainly to speak out what he would have done with the act of indulgence, I must despair of ever being able to know any man's meaning by his expressions. Such examples are not only the most likely to enforce, but the most proper, and lively methods to convey a man's sense, even to the dullest capacity; and make him clearly perceive, if not what he ought, yet I am sure what the preacher would have him to do.

"The truth is, so plain was his meaning, that he himself began to fear that he had gone a little too far in what he had said of this matter. And, for that reason, he added that one poor sentence which immediately follows, and of which he has made such good use since: 'That he would not be misunderstood as if he 'intended to cast the least invidious reflection 'upon that indulgence the government had 'condescended to give them, (the dissenters:') but what then did he intend by all this bitter invective against them; and that very instructive piece of history with which he concluded it? He has told us that 'the Dissenters are 'false-brethren; destructive both of our civil 'and ecclesiastical rights. That they are occasional loyalists to the state, as well as occasional conformists to the church; and will 'betray both, whenever they have it in their 'power, and it shall be their interest to do it. 'That it must be a Scottish infatuation to believe that the same latidunarian and republican notions, should not bring forth the same 'rebellious and pernicious consequences: that 'we shall be convinced to our sorrow, if we do 'not apprehend that the old leaven of their 'fore-fathers, is still working in the present generation; that they have already made dangerous encroachments upon the government; 'and published treasonable reflections upon 'her majesty: that they have advanced their 'indulgence into a civil right, and jostled the 'Church out of her establishment, by hoisting 'their Toleration into its place: that they have 'by their abominable hypocrisy undermined 'the foundation of the Church, and endangered 'the government, by filling it with its professed 'enemies: that they are clamorous, insatiable 'Church-devouring malignants; whom no 'other grants, or indulgencies can win over, 'but the giving up our whole constitution: 'that ever since their first unhappy plantation 'in this kingdom, they have improved, and 'rose upon their demands in the permission of 'the government: that queen Elizabeth, who 'tolerated them for eight years together, was 'forced at last to suppress them by wholesome 'severities: that this made her crown sit easy 'and flourishing on her head; whereas king 'James the first, by not pursuing the like methods ruined the whole royal family, that nothing better could be expected from such 'miscreants, begot in rebellion, born in sedition, and nursed up in faction:' All this Dr. S. has said in these very plain, and emphatical words. If he did not intend by all this to shew the necessity of suppressing these factious people, these vipers, who are just ready to sting us all to death, I would be glad to know what it was that he did intend by it? Could he say all this, and with such a singular strain of impetuous eloquence, and yet 'not intend to cast so much as the least invidious 'reflections upon that indulgence which the 'government has thought fit to give them?' I must freely own, my lords, I could never have imagined this: nay I must be excused if I add, That notwithstanding this poor evasion, I cannot yet believe it. But the act of Indulgence stood in his way: that act the queen had declared her resolution to maintain: your lordships and the Commons had often shewn your steadiness to the same effect. Even those who pressed so violently against Occasional Communion, yet thought it necessary to say, in the very preamble of that bill, that the act of Indulgence ought inviolably to be observed; and therefore Dr. S. thought it needful to add somewhat that he knew would not take off any thing from the force of his invective: yet might serve to excuse the severity of it; and be made use of to the purpose

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it now is, if he should chance to be called to account for it. This, my lords, I conceive to be the true meaning of that one single passage so utterly repugnant to all the rest of his discourse: nor can I put any other interpretation upon it. For had I the same opinion of these men, their principles and their designs, that Dr. S. has; I should be so far from thinking them fit to be indulged, that I should account it my duty, and the duty of every true friend to our Church and government; to take the same methods of wholesome severities with them that queen Elizabeth did: and I hope by God's grace that should I be questioned for it, I should not dissemble my opinion; but should have the courage honestly to own it, whatever I might chance to suffer for it.

"I have, my lords, insisted the longer upon this part of the Doctor's Sermon, because I would not willingly fall under the censure of picking out disjointed sentences, and putting them together from distant places, that so I might the better draw a sense out of them, contrary to his meaning. I shall trouble your lordships but with one part more of it, to the same effect; page 24, 25. Where he comes to consider, what should be the result of his long discourse? I shall read it to your lordships in his own words, page 25. 'Let us 'therefore (says he) as we are unhappy sharers 'of St. Paul's misfortune, to have our Church 'in perils amongst false-brethren, follow his 'example, and conduct in a parallel case. He 'tells us in his Epistle to the Galatians, c. 2. 'That he was obstructed, and pestered in 'preaching the Gospel, by false-brethren una-'wares brought in, who came privily to spy 'out his liberty which he had in Christ Jesus, 'that they might bring him into bondage. To 'whom he gave place by subjection, no not 'for an hour, that the truth of the Gospel 'might continue with the Church. Doubtless 'this brave and bold resolution, did the Apos-'tle take by the peculiar command, and inspi-'ration, of the Holy Ghost; and yet if our 'Dissenters had lived in those times, they 'would have branded him as an intemperate, 'hot, furious zealot; that wanted to be sweet-'ened by the gentle spirit of charity, and mo-'deration, forsooth.'

"Here we have again the persons of whom the preacher speaks: they are our dissenters; not the Deists, Atheists, Socinians, hypocrites of our times. And accordingly, what follows, plainly refers to them: for thus he goes on, 'schism and faction are things of impudent and 'incroaching natures: take permissions for 'power; and advance a Toleration, (for so the 'Doctor is still at liberty to call, what we 'must stile Indulgence) immediately into an 'establishment.' Your lordships will please to observe, by the way, that this was the very thing he had before said of these same persons, p. 19; and thereby plainly shews, that he speaks in both places of those Dissenters who have a right to the Toleration, or Indulgence, granted by law to Protestant Dissenters. Let us now hear what he would have done with them. Why he would have them 'treated 'like growing mischiefs; or infectious plagues; 'kept at a distance, lest their deadly con-'tagion spread.' And the method he proposes in order thereunto, is this, 'Let us therefore,' says he, 'have no fellowship with these works 'of darkness; but rather reprove them.' These works, schism and faction; for of these, and these only, he here speaks. This is the people's part; and the inferior pastors: as for the superior pastors, let them do their duty, in thundering out their ecclesiastical anathemas against them. Against whom, my lords? What works of darkness? Still the same he before mentioned: our dissenters, those are the persons: their schism and faction; those are the works of darkness to which he refers. 'And let any power on earth dare reverse a 'sentence ratified in heaven.'

"This, my lords, was the last part of the Commons' Impeachment upon this second Article: and it is so plainly expressed by the preacher in this passage, that I confess it amazes me to consider with what positiveness he has thought fit to deny that any such thing was meant by him. The persons whom the superior pastors are summoned to anathematize, are the same with those, whom the other pastors and people, are to have no fellowship withal, but to reprove. These, by the necessary connexion of his discourse, are our dissenters; those works of darkness, he states to be schism, and faction: those dissenters to whom the government hath granted a Toleration; as himself, in the same passage, takes notice. Which being so; I shall leave the Doctor to deny, and protest, as he pleases; but when all is done, his own words will rise up against him, and appear to every impartial person so plain, and positive, as to put it beyond the power of any artificial interpretation to perplex the meaning of them.

"And this lets us into the true application of those passages of Scripture, with which he concludes his whole discourse. In which having shewn the danger of our Church from these false-brethren, and exhorted his auditory to a steady courage and resolution in the defence of it; he thus at once both enforces his doctrine, and abuses his adversaries. That though the church (for to that he applies, what Zechariah spake of the False Prophets that seduced the people) lies bleeding of the wounds which she has received in the house of her friends: a passage first thrown at myself, for defending the prince's authority, when some of these very men engaged as vehemently on the side of liberty, against the rights of the crown, as they now pretend to stand up vigorously for it; though the ways of Zion may mourn for a time (so the Doctor glosses upon the text) and her gates be desolate; her priests sigh; and she in bitterness, because (it is the preacher's reason, the text has no such word) her adversaries are chief; he means, in the administration under her majesty; and her

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enemies at present prosper; (so he again improves the text; in hopes, I suppose, that it will not be long before he shall have preached them out of their places): though among all her lovers she has few, (the prophet complained, that Jerusalem had none) to comfort her; and many (Jeremiah said all) have dealt treacherously with her, and are become her enemies; (he refers to those of whom he had before spoken p. 22.) Though there are few to guide her among all the sons which she hath brought forth; neither are there many to take her by the hand of all the sons that she hath brought up; (Isaiah in both places, says none:) though her enemies cry down with her, down with her, even to the ground: that is, in other words, though (the preacher, and a few of his friends, excepted) both the fathers and pastors of the church; and the men who are at present in power, and authority, in the state, are become false-brethren, and run in with those enemies of the church, our dissenters, against it; 'yet there is a God that 'can, and will raise her up, if we forsake her 'not.'—It were an easy matter to make many proper remarks upon these passages of Scripture, thus applied, or rather abused, by the preacher: but that would be besides my present business; and will fall in more properly under the last Article of this Impeachment. It is enough that I have, I hope, fully shewn your lordships how Dr. S. has treated, if not the indulgence itself, yet I am sure, those who are entitled to the benefit of it: and who if they shall have the misfortune, by this kind of preaching, to be once generally thought such wicked, false, and dangerous enemies to our Church and State as they are here represented, I cannot think that their indulgence will hold long. If they have numbers to secure them, it is well for them: but otherwise I am sure, as the case is here stated, it must be our wisdom, as well as duty, to suppress them.—How criminal such an invective as this will be accounted in the eye of the law, I dare not presume to suggest: much less shall I pretend to intimate what censure it may deserve. Somewhat I think should be done to put a stop to such preaching, as if not timely corrected may kindle such heats and animosities among us, as may truly endanger both our Church and State."

The Bishop of *Norwich* (Dr. Charles Trimnell)* made this Speech:

"My Lords; I am very sensible under what disadvantage in the opinion of many, a bishop must speak against a clergyman that stands accused of crimes committed by him in the seeming execution of his office; especially after having been so publicly required to be an advocate as well as a judge. And I am the more sensible of this prejudice lying against me, for having been so lately called into that order, and for being so unworthy of it. But I think myself obliged notwithstanding, under all these disadvantages, to deliver not only my judgment, but also the reasons that determine me to it: which I shall do as plainly as I can; with that deference to your lordships, which I am sure it must upon all occasions particularly become me to pay; and at the same time with that freedom which I think the importance of this cause does at this time require. Dr. Sacheverell stands impeached by the Commons of Great-Britain, of high crimes and misdemeanors expressed in the several Articles of the Charge exhibited against him: and your lordships have heard what they have said in support of that charge, as well as what has been offered in the Doctor's defence. Your lordships have also debated among yourselves the merits of the cause, as to the first of these Articles; and have come to a Resolution, that the Commons have made good that part of their Charge: in which Resolution as I did heartily concur; so I was ready to have humbly represented to your lordships my reasons for so doing, had there been either room or occasion for it.

"Your lordships are now upon the second Article; wherein the Doctor is charged for suggesting and maintaining that the Toleration granted by law, is unreasonable, and the allowance of it unwarrantable; with other particulars that have immediate relation to this general charge, and which are indeed so many proofs of it. In this view therefore, my lords, I beg leave to consider them; and the first of these instances, in support of this charge, is, that he asserts that he is a false brother with relation to God, Religion, or the Church, who defends Toleration and Liberty of Conscience; and this, my lords, the Doctor does assert in so many words. It is one of the many marks he gives whereby we may discern who is a false brother in those respects; not a small part of one general mark, as was alledged very inconclusively, I think, in his defence. For if it was to be granted, (though it cannot be fairly pretended) that the Doctor makes the defending of Toleration and Liberty of Conscience, one branch only of the character of a false brother; I do not see how it could make even a part of that character, if there was no false brotherhood in it. And I shall not trouble myself or your lordships with going about to settle the degrees of false brotherhood that are in this part of the character, because I think every degree of it is unreasonable and not to warranted.—And therefore the Doctor cannot make it so much as a part of the character of a false brother to defend Toleration and Liberty of Conscience, as it is confessed that he does, but he must at the same time suggest and main-

* Dr. Trimnell had been tutor to the earl of Sunderland. Swift, in his Journal to Stella, of the 31st of January, 1711-12, says, "Trimnell, bishop of Norwich, who was with lord Sunderland at Moor-park in their travels, preached yesterday before the House of Lords; and to day the question was put to thank him and print his Sermon; but passed against him; for it was a terrible Whig Sermon."

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tain that the Toleration is unreasonable, and the allowance of it unwarrantable. For it can never be any degree of false brotherhood, to defend what is reasonable and warrantable: nor would even the Doctor, as inconsistent a man as several of the noble lords that have spoken for him represent him him to be, ever have made it one; if he had not himself condemned that which he blames others for defending.

"The second instance alledged is, that he calls archbishop Grindall a false son of the Church, and a perfidious prelate, for deluding queen Elizabeth into the toleration of the Genevian discipline. I shall not, my lords, go about to add any thing to the full and just vindication you have heard of that excellent prelate. But can any of your lordships believe, that a Presbyter of the Church of England, professing more than ordinary zeal for episcopacy and the constitution of this Church; should bestow such language on one who was the first bishop and the ornament of it so long; only for disposing that glorious queen to a mild treatment of the Puritans of that time, which is the utmost that is pretended to be laid to his charge, if he had thought Toleration a reasonable thing, or what was fit to be established by law? This, my lords, I confess can never enter into my thoughts, as ready as I am to enlarge them for the admitting of any favourable construction that will not shut out common sense.

"The third instance is his making it the duty of the superior pastors to thunder out their ecclesiastical anathemas against persons entitled to the benefits of the Toleration. And to shew that he has done this, I need only refer your lordships to that part of his Sermon where the superior pastors are called upon to do so: (viz.) the fourth and last general head, where he draws the consequence of all that he had spoken before, in the following words. 'Now what should be the result of this long discourse, but that if we bear any true concern for the interest, honour, and safety of our church and government, we ought stedfastly to adhere to those fundamental principles, upon which both are founded, and upon which their security under God alone depends; and consequently that it highly behoves us, cautiously to watch against, to mark, and avoid all those that thus treacherously desert them. And indeed it would be both for our advantage, as well as their credit, if such men would throw off the mask, entirely quit our church of which they are no true members, and not fraudulently eat her bread, and lay wait for her ruin, purloin her revenues, and ungratefully lift up their heels against her. For then we should be one fold under one shepherd; all those invidious distinctions, that now distract and confound us, lost; and we should be terrible like an army of banners to our enemies; who could never break in upon such an uniform and well compacted body. This indeed would be a true peace, and solid union, when we should all with one mind and one mouth glorify God, and not with a confused diversity of contradictious opinions, and inconsistent jargon of worship, which the God of peace, purity, and order, cannot but abhor. 'As it is a maxim in politics, that all governments are best supported by the same methods and councils upon which they are founded; so it will appear undeniably true in its application to our constitution, which can be maintained by no other principles, but those on which it is built, and like their basis, the gospel, if there is any violation, or breach made in any branch of it, it shakes and endangers the whole frame and body. These things, however little they may be represented by our adversaries, will be found of the most considerable consequence. Let us therefore, as we are unhappy sharers of St. Paul's misfortune, to have our church in perils among false brethren, follow his example and conduct in a parallel case. He tells us in his epistle to the Galatians, c. 2, that he was obstructed and pestered in his preaching the gospel, by false brethren unawares brought in, who came privily to spy out his liberty, which he had in Christ Jesus, that they might bring him into bondage; to whom he gave place by subjection, no not for an hour, that the truth of the gospel might continue with the church. Doubtless this brave and bold resolution did the apostle take by the peculiar command, and inspiration of the Holy Ghost; and yet if our Dissenters had lived in those times, they would have branded him, as an intemperate, hot, furious zealot, that wanted to be sweetened by the gentle spirit of charity and moderation forsooth. Schism, and faction, are things of impudent and encroaching natures, they thrive upon concessions, take permission for power, and advance a Toleration immediately into an establishment. And are therefore to be treated like growing mischiefs, or infectious plagues, kept at a distance, lest their deadly contagion spreads. Let us therefore have no fellowship with those works of darkness, but rather reprove them. Let our superior pastors do their duty in thundering out their ecclesiastical anathemas, and let any power on earth dare reverse a sentence ratified in heaven.'

"Can any thing, my lords, be plainer than that the Dissenters, and they only, are here spoken of; and what does the doctor say in his own defence, to avoid it? his words in his printed speech are these; 'Schismatics, my lords, are not the only persons against whom ecclesiastical censures may be denounced; the works of darkness which I referred to as fit to be reproved, in that part of my Sermon where I speak of these censures, are of the same kind with those mentioned by the apostle, whose words I produced; all lewd and immoral practices, &c.' It is very true, my lords, schismatics are not the only persons against whom ecclesiastical censures may be denounced, but I must still say they are the only persons referred to, in the paragraph I have read to your lordships; and therefore I own I am a good deal concerned, to find the Doctor

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making so vain, so insincere a defence. For it is not works of darkness in general he is cautioning against, but expressly, by a word of his own inserting, not the apostle's, those works of darkness mentioned immediately before; schism and faction, which with him go always together.—These are the sins against which he calls upon his superior pastors to thunder out their ecclesiastical anathemas; nor can the charge be avoided by that distinction which was offered in his behalf, between a censure purely spiritual, and an ecclesiastical censure. For admitting there is ground for that distinction in a scholastical consideration of the general question of christian censures; yet there is no room to make use of it in this case, because he calls expressly for ecclesiastical anathemas, which can be applied to none but such as are part of the order and discipline of this church.—And it is certain, my lords, that these censures cannot, since the act of Toleration, be inflicted upon Dissenters, how much soever their schism remains; because it is expressly provided by an act of parliament, (an act, my lords, of the whole Christian society, to which the superior pastors were personally concurring,) that they shall not be treated as schismatics in the way of those ecclesiastical censures, to which their separation would otherwise have certainly subjected them. And though I cannot undertake upon memory to be very particular, yet I dare venture to say, there have anciently been relaxations of the discipline of the church, even when the crime was thought to deserve the continuance of it; for public expedience, and better preserving the peace of the Christian world: and that in such cases any presbyter or bishop would himself have been censured, if he had not acquiesced in such relaxations.

"My lords, a presbyter of the church of England, is the more obliged to acquiesce in all such relaxations amongst us as are legally made, because he has solemnly promised at his ordination, that he will give his faithful diligence always so to minister the doctrine and sacraments, and discipline of Christ, as the Lord hath commanded, and as this church and realm hath received the same.—I have already observed to your lordships, how the discipline of the church stands at present as to the point in question. And as the relaxation of it in that particular, was agreeable to that temper which the bishops who petitioned king James, gave the dissenters ground to expect: So I am verily persuaded that the church is so far from having been hurt by this indulgence, that it has received advantage as well as credit, from that moderation which gave way to it. I could give several instances of this within my own observation, while I was arch-deacon, under a reverend prelate, that now sits before me; and since I have had the honour to be on this bench: In which compass of time several men of sobriety and learning bred up to be ministers amongst the dissenters, have left the Separation, and upon due trial have been admitted to orders in our church: in which they have officiated with entire conformity to our rules, and to the honour of our holy religion.—These instances have been so frequent and remarkable, since the dissenters have been exempted from the penalties of certain laws, above what had been observed before; that I think it very ill becomes any clergyman to preach against that exemption, as the Doctor (notwithstanding his reserve for consciences truly scrupulous) has done; and to call upon his superiors to act in contradiction to it. He should have forbore doing this, at least out of regard to her majesty, who had been graciously pleased to declare from the throne, that she would preserve the Toleration inviolable: A resolution I shall ever think it my duty upon all proper occasions to express my approbation of, as just and wise and charitable, and every way agreeable to the spirit and genius of the Christian religion.

"I shall not, my lords, enter into the enquiry of what sentences are ratified in heaven: But as one may venture to say, that all that have been pronounced on earth, are not ratified there, so by all that I have seen of the Doctor's spirit in these matters, I have great reason to fear, that if the power of the keys was in his hands, it would often be very sadly abused.—However he has so good an opinion of his own spirit, as to put his superiors in mind of another part of their duty, immediately after that I have mentioned; and that is, to promote men of probity, conscience and courage, without which he thinks they cannot be fit members of the church militant; in which I can as little agree with him as in the former demand. For if I may judge of the probity, conscience, and courage he thinks so deserving, by what appears in his Sermon, compared with his speech to your lordships; I cannot think them qualifications for a minister of the church of Christ in any respect; and I hope I shall be so happy as to find all the reverend prelates with whom I have the honour to sit, agreeing with me in this. But though I hope such a conduct will never recommend any person to favour; yet I do not desire that even that which I heartily blame, should be punished so much as I think it deserves. And though he who pleads so warmly for wholesome severities towards those who differ from him, has the least title to your lordships' compassion; yet I hope he will find it as far as the just concern you have for the public tranquillity will allow you to shew it.—This I say from that which I bless God is the natural temper of my mind, and not from the care that has been taken by some to intimidate as far as they could, those who were to have the cognizance of the Doctor's cause, and were not thought to be favourable to it.

"I shall not take upon me to charge the Doctor or any of his particular friends with this practice, as great a temptation as one is under to do so from several circumstances. And it is not the least, that occurs in his prayers, which he has published upon this occasion,

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to represent not so much to God as to the world, that he is under persecution, when he is prosecuted for offending against the law, by those who in common justice ought to be thought the fairest accusers; and before your lordships, who are justly acknowledged to be the most impartial judges. However, I will never believe, till I cannot avoid it; that any members of the Church of England who have acknowledged the government, much less any clergyman who has so often professed his obedience to it in church and state, should have been any way accessary to those threatenings that have been given out, particularly against such bishops as should happen to condemn the Doctor's proceedings.

"As far, my lords, as I have seen of this cause, I am likely to be one of those bishops; and though I do not pretend to any great share of courage, I am very free to declare to your lordships that I am in no comparison so apprehensive of what may befall myself for condemning this person, as I am of what will probably befal the public if your lordships should not condemn him. But that is in your lordships' judgment, to which I humbly submit it: And only beg pardon for having detained your lordships so long in giving my reasons why I think the Commons have made good this second part of their charge."

It was then voted, "That the Commons had made good the Second Article of Impeachment."

In relation to the Third Article, the lord Halifax made a short speech, and was answered by the lord Ferrers and the earl of Nottingham. The Fourth Article occasioned a longer debate, which was begun by the earl of Wharton, in the commendation of the present administration.

The Bishop of *Salisbury* seconded him, and spoke with vehemence against Dr. Sacheverell, "who, by inveighing against the Revolution, Toleration, and Union, seemed to arraign and attack the queen herself, since her majesty had so great a share in the first, and had often declared, that she would maintain the second; and that she looked upon the third as the most glorious event of her reign. That nothing could be more plain than his reflecting on her majesty's ministers; and that he had in particular so well marked out a noble peer there present, by an ugly and scurrilous epithet [Volpone] (which he would not repeat) that it was not possible to mistake him."

Upon this some of the younger peers fell a laughing, and cried out, "Name him! Name him!" But

The *Lord Chancellor* interposed, declaring, "That no peer was obliged to say but what he thought fit."

The Lord Ferrers said something in favour of Dr. Sacheverell, but was answered by the earl of Ilay; and then

The Lord *Haversham* made a short speech about that part of the Fourth Article, wherein Dr. Sacheverell was charged with wresting and perverting divers passages of scripture. He said, "No man on earth has authority to interpret the Scripture, which, he thought, must be interpreted by itself: since the Reformation, we had contended against the Church of Rome, who pretended to that authority: and shall we (added he) allow infallibility in the Commons, which we deny to the pope of Rome?" And in conclusion he repeated his desire, that the reverend prelates there present would tell the House, 'How Dr. Sacheverell could be charged with wresting the scripture?' But none of the Bishops offered to satisfy him. The duke of Hamilton, having said something in favour of the Doctor, he was answered by the lord Mohun. The duke of Buckingham, the lord Ferrers, the earls of Scarsdale and Abingdon, and the lord Caermarthen, endeavoured likewise to extenuate the Doctor's offences, but it was voted, "That the Commons had made good the Fourth Article of the Impeachment." However, 33 lords entered their dissent to the question upon the second, third, and fourth Articles.—At the close of the debate,

The Earl of *Wharton* said, "That since the House had resolved, that the Commons had made good their four Articles of Impeachment against Dr. Sacheverell, the Lords ought, by a necessary consequence, to resolve and declare likewise, That the Doctor was guilty of the high crimes and misdemeanors charged upon him." But the earls of Abingdon and Rochester, the lord treasurer, the lord North and Grey, and the lord Ferrers, starting some difficulties, it was proposed, that the question to be asked every lord in Westminster-hall should be as follows: "That the Commons having made good the several Articles of the Impeachment against Henry Sacheverell, doctor in divinity; the said Dr. Henry Sacheverell is guilty of high crimes and misdemeanors."

Accordingly, on the 18th of March, the question being read, the earl of Rochester moved, that the Judges should be consulted; but no peer seconding that motion,

The Lord *Guernsey* said, "The question, as stated, was not fit to be put in Westminster-hall, because it would subvert the constitution of parliament, and preclude the peers from their right of giving their judgment, both of the fact, as well as of the law. For in this case some peers might be satisfied as to the fact, but not as to the law, and if they were to give their judgment as the question was stated, their freedom of voting would be taken away. Therefore he moved, 'That the first part of the proposed question be left out.'"

The Lord *North and Grey*, who spoke next, said, "There is no necessity of putting the question in Westminster-hall, but only acquainting the Commons there, that Dr. Sacheverell is guilty in general: for how can any peer, that thinks him not guilty (as for my part, I do not) say in the face of the Commons, he is not guilty, and allow at the same time, that the Commons have made good their Articles of Impeachment."

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The Earl of *Wharton* said, "He wondered at the lord Guernsey's making that motion, after the House had come to a resolution, that the Commons had made good their Articles. The question, as stated by the lord chancellor, did not preclude any peer from his right of giving his judgment; for every lord was at liberty to protest and enter his dissent, if he would not be convinced by the majority of the House; and that the Lords, being in the nature of a jury, ought to deliver their opinions *seriatim*."

The Lord *Ferrers* supported the lord Guernsey's motion, objecting against the preamble of the question as unnecessary, and urging, that it was only the majority of the House, and not the House, that came to a resolution, "That the Commons had made good their Impeachments."

On the other hand,

The Lord *Guernsey*, in answer to the earl of Wharton, said, "That the Lords were not as a jury, for every lord was both a judge and a juror; that some peers might think Dr. Sacheverell guilty of one part, and innocent of the other; and yet if they were to give their judgment, as this question was stated, how could they say he was not guilty, when the preamble set forth, that the Commons had made good their Impeachment?"

The Earl of *Wharton* replied, 'That this objection had been much more proper before the House had proceeded so far.' However the earl of Rochester having moved, that the preamble be left out, the earl of Wharton and the rest agreed to it; and the lord chancellor stated the question thus: "That the question to be put to each lord in Westminster-Hall, beginning at the junior baron first, shall be, Is Dr. Henry Sacheverell guilty of High Crimes and Misdemeanors?" The earl of Nottingham moved, that the words "of high crimes and misdemeanors" be left out, and was seconded by the lord North and Grey. But the earl of Wharton said, "That what was offered was unfair; for the Commons having impeached Dr. Sacheverell of high crimes and misdemeanors, and the Lords having agreed and resolved, that the Commons had made good the Impeachment, it necessarily followed, that he was guilty of the said crimes and misdemeanors."

To moderate the matter, the Duke of Buckingham proposed, that the question be thus altered, "of the crimes and misdemeanors charged upon him by the Impeachment;" to which the earls of Wharton and Sunderland readily agreed; but the earl of Jersey excepted against the question, as being complex or complicated.

The Lord *Guernsey* pursued the same objection, for the reason he alledged before, viz. "That some peers might think Dr. Sacheverell guilty of some of the crimes charged upon him by the Impeachment of the Commons, and innocent of the other; and urged an instance of an indictment concerning several charges, in which case the jury is not to answer generally, but particularly to each offence, because the judge goes by the verdict, and imposes the fine accordingly." Therefore his lordship moved, "That each peer should give his judgment severally to each article." To this

The Lord *Somers* answered, "That the matter of fact was already settled, though every peer might protest and dissent: that the lord Guernsey's objection, grounded on the instance he brought in of indictments in the courts below, was very improper, because, as his lordship himself had suggested, the Lords are both judges and jury. That, as jury, they might, in conscience, pronounce the Doctor guilty, though they thought him guilty only of one article: but that the lords, who did not think him guilty of all the four articles, might, afterwards, as judges, moderate the punishment."

The Earl of *Nottingham* replied, "That, for his part, he thought Dr. Sacheverell guilty of no crime;" and moved; that the particle be left out, and the question put thus; "Is Dr. Henry Sacheverell guilty of High Crimes and Misdemeanors charged upon him by the Impeachment?" which was agreed to.

Then it being proposed to consider what answer each lord should give, the lord Halifax said, That, according to the usage of parliament, the Lords ought to answer Content, or Not Content. But the lord Ferrers alledged, "That Content, or Not Content, was not an adequate answer to the question:" and both the earl of Nottingham, and the lord Guernsey, his brother, urged, "That there were several precedents for Guilty, or Not Guilty, upon my honour; but did not remember any for Content, or Not Content."

The Lord *Halifax* maintained his assertion, and said, "He wondered, the lord Nottingham did not know there were precedents for Content or Not Content; and instanced in the lord Somers's trial, in which the Lords gave their judgment that way"

On the other hand, the lord Guernsey insisted upon answering Guilty or Not Guilty; and was seconded by the Lord Treasurer, who said, "That there was a difference between the lords voting in their House promiscuously, sometimes in confusion, and their giving their judgments in Westminster-hall; and that the precedent mentioned by the lord Halifax was an extraordinary one, made in an extraordinary case."

The lord Halifax moved for searching the Journals; and the earl of Wharton for following precedents. The clerk turned to, and read the precedent of the lord Somers's Impeachment, in which the peers gave their judgment by Content or Not Content. But the earl of Rochester desiring, that other precedents might be searched, and urging, that there was a difference between the lords voting in their House and in Westminster-hall;

The Duke of *Buckingham* answered, 'That the Trial was the same in Westminster-hall, as if the Lords were in their House; that they removed to the hall only for the spaciousness

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of the place: and therefore the question ought to be answered, as if they were in the House, Content, or Not Content.' To this the earl of Ilay replied, 'That Content, or Not Content, was a very improper and ungrammatical answer to the question, Is Dr. Sacheverell guilty of high crimes, &c. And therefore either the question ought to be altered, or the answer be Guilty, or Not Guilty. Then

The Lord *Ferrers* endeavoured to shew the inconveniences, that might attend the putting the question, as proposed, alledging, "That some of the peers there present, might hereafter be impeached, and repent too late the having made such a precedent of giving judgment generally."

The Earl of *Anglesey* pursued the same argument; adding, that if the question was put, and answered generally, the majority of the people would not know what the Doctor was condemned for. To which

The *Lord Chancellor* readily replied, "That every body would know he was either guilty, or not guilty of the crimes charged on him by the impeachment of the House of Commons." But

The Earl of *Mar* insisted, "That every peer ought to be at liberty to vote, guilty, or not guilty to every article; otherwise it might happen, that the majority of the House might think Dr. Sacheverell innocent upon each Article; yet, by this method of a general answer, he might be condemned of all; which seemed inconsistent with the usual method of justice in that House."

The Duke of *Buckingham* urged on the same side, "That, since the judgment of the House in this case ought to be a declaration of the law, the condition of the people would be most miserable, to have punishment for high-crimes and misdemeanors, and not have a probability of informing themselves, what the crimes thereby punished were, which they could not learn from this general determination: and that, this uncertainty being in the case of a clergyman for preaching, it might create some fears in good men, when they preach some doctrines of the church of England, particularly that of non resistance."

The Earl of *Sunderland* calling for the question, the earl of Anglesey insisted on the inconveniences of answering generally to it. Whereupon,

The *Lord Chancellor* mentioned four inconveniences that might ensue: "First, That clergymen would know, that to preach against the Revolution, was a high crime and misdemeanor: 2nd'y, to preach against the Toleration: 3d'y, against the Union: and 4th'y, that to reflect on the queen's ministers, and suggest, that the church is in danger under her majesty's administration, were likewise high crimes and misdemeanors. These, said his lordship, are the only inconveniencies, that I can foresee, will attend this judgment." The earl of Wharton calling then for the question,

The Duke of *Shrewsbury* said, "That he did not think the Doctor guilty of the first article; though he had as great a share as any man in the late Revolution, and would ever go as far as any to vindicate the memory of our late glorious deliverer. That he thought the church safe under her majesty's administration; but he would not have it made a high crime and misdemeanor to say, that the church is in danger, because times might come, when it might really be in danger." And, in conclusion, his grace insisted on his voting Article by Article. The lord Caermarthen, the earl of Anglesey, and the earl of Nottingham did the like: but, the same being opposed by some other peers, the Lord Chancellor at last proposed this question, "Whether the Answer to be given by each lord should be Guilty or Not Guilty only?" Which being resolved in the affirmative, then the main question was put, whether it should be asked, "Is Henry Sacheverell, D.D. guilty of high crimes and misdemeanor, charged upon him by the Impeachment of the House of Commons?"

This was likewise carried in the affirmative; when 34 Lords entered their protest, importing in substance, "That the obliging every lord to answer generally guilty or not guilty, to a question containing all the Articles of his Impeachment, was a kind of tacking upon themselves by an unnecessary joining of matters of a different nature, and subjecting them to one and the same determination; and consequently might prejudice the right every peer had to give a free affirmative or negative; since whoever thought Dr. Sacheverell guilty of one part, and innocent of the other, would be obliged either to approve what he condemned, or condemn what he approved. 2. They conceived there was at least a possibility, that though a majority of the House was admitted to vote to the Articles separately, and might think him innocent upon each Article; yet, by this method of a general answer, he might be condemned of all; which seemed not to be consistent with the usual method of justice in this House. 3. That since the judgment of the House, in this case, ought to be a declaration of the law; the condition of the people would be most miserable, to have punishment inflicted for high crimes and misdemeanors, and not have a possibility of informing themselves, what the high crimes and misdemeanors, thereby punished, are. For the people's only guide is the law: and they can never be guided by what they can never be informed of. And that this uncertainty being in the case of a clergyman for preaching, it might create some fear in good men, when they preach some doctrines of the church of England, particularly that of non-resistance; and might be made use of by ill ones, as an excuse for the neglect of that duty, which upon some occasions is required."

The Doctor voted Guilty.] On the 20th of March, about 3 o'clock in the afternoon, the Lords and Commons having taken their respec-

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tive seats, and their lordships' House being resumed, the lord chancellor declared, that they had agreed upon a question to be put to each lord severally. And then his lordship having put the question, beginning at the junior baron first, 69 Lords declared Dr. Sacheverell Guilty, and 52 Not Guilty. The lord chancellor, having cast up the votes, declared Dr. Sacheverell Guilty; and the usher of the black-rod having brought the Doctor to the bar, and caused him to kneel down, the lord chancellor told him, That the Lords having, with their usual candour and equity, examined and considered the Articles exhibited against him, with the allegations to make good the same, and what had been offered by his counsel and himself in his defence, had found him Guilty of high crimes and misdemeanors charged upon him by the Commons of Great Britain. Then the Doctor, standing up, made a short speech importing, "That not having been suffered to be at their lordships' bar while their lordships were giving their votes; he hoped he might now be permitted to put in a plea, before their lordships passed sentence upon him. That he was advised by his counsel to offer, first, that, by the opinion of all the judges, the particular words, supposed to be criminal, ought to have been expressly specified in the Articles of Impeachment against him. Secondly, that, in the title of the said Articles, the same were said to be 'exhibited in the 'name of all the Commons of Great Britain,' and yet the commissioners of shires, who make part of the Commons of Great Britain, were not mentioned with the knights, citizens and burgesses in parliament assembled. Both which he begged their lordships to take into consideration." The Lords, being returned to their House, considered of the Doctor's plea; and resolved, that the same was frivolous, and that they would the next day consider what censure to pass upon him.

Sentence passed upon him.] The next debate was, what Censure ought to pass upon him: And here a strange turn appeared; some seemed to apprehend the effects of a popular fury, if the Censure was severe; to others it was said, that the queen desired it might be mild; so it was proposed to suspend him from preaching for one year: others were for six years; but by a vote it was fixed to 3 years. It was next moved, That he should be incapable of all preferment for those 3 years; upon that, the House was divided, 59 were for the Vote, and 60 were against it; so that being laid aside, the Sermon was ordered to be burnt, in the presence of the Lord Mayor and sheriffs of London; and this was done, only the Lord Mayor, being a member of the House of Commons, did not think he was bound to be present. The Lords also voted, that the Decrees of the university of Oxford, passed in 1683, in which the absolute authority of princes, and the unalterableness of the hereditary right of succeeding to the crown, were asserted in a very high strain, should be burnt with Sacheverell's Sermon.

A LIST of the Lords who voted for and against Dr. Sacheverell.

Lord Hervey, g.
Lord Conway, n. g.
Lord Guernsey, n. g.
Lord Halifax, g.
Lord Haversham, n. g.
Lord Herbert, g.
Lord Weston, n. g.
Lord Lempster, n. g.
Lord Guilford, n. g.
Lord Stawell, n. g.
Lord Dartmouth, n. g.
Lord Ossulston, g.
Lord Osborn, n. g.
Lord Craven, n. g.
Lord Cornwallis, g.
Lord Berkley of Stratton, n. g.
Lord Lexington, n. g.
Lord Rockingham, g.
Lord Colepeper, g.
Lord Byron, g.
Lord Leigh, n. g.
Lord Mohun, g.
Lord Howard of Escrick, n. g.
Lord Hunsdon, g.
Lord Chandois, n. g.
Lord North and Grey, n. g.
Lord Paget, g.
Lord Willoughby of Broke, n. g.
Lord Fitzwalter, g.
Lord Ferrers, n. g.
Lord Delawar, g.
Bishop of St. Asaph, g.
Bishop of Norwich, g.
Bishop of Chester, n. g.
Bishop of Lincoln, g.
Bishop of Bath and Wells, n. g.
Bishop of Oxford, g.
Bishop of Peterborough, g.
Bishop of Ely, g.
Bishop of Sarum, g.
Bishop of Rochester, n. g.
Bishop of Durham, n. g.
Bishop of London, n. g.
Lord Viscount Weymouth, n. g.
Lord Viscount Say and Seal, n. g.
Earl of Isla, g.
Earl of Glasgow, g.
Earl of Roseberry, g.
Earl of Seafield, g.
Earl of Orkney, g.
Earl of Northesk, n. g.
Earl of Leven, g.
Earl of Wymess, n. g.
Earl of Loudoun, g.
Earl of Marr, n. g.
Earl of Crawford, g.
Earl of Cholmondeley, g.
Earl of Poulett, n. g.
Earl of Wharton, g.
Earl of Greenwich, g.
Earl of Grantham, g.
Earl of Jersey, n. g.
Earl of Oriord, g.
Earl of Bradford, g.
Earl of Warrington, g.
Earl of Scarborough, n. g.
Earl of Portland, g.
Earl of Plymouth, n. g.
Earl of Holderness, g.
Earl of Abington, n. g.
Earl of Rochester, n. g.
Earl of Nottingham, n. g.
Earl of Berkley, g.
Earl of Yarmouth, n. g.
Earl of Radnor, g.
Earl of Sussex, n. g.
Earl of Carlisle, g.
Earl of Anglesea, n. g.
Earl of Scarsdale, n. g.
Earl of Sunderland, g.
Earl of Thanet, n. g.
Earl of Winchelsea, g.
Earl of Stamford, g.
Earl Rivers, g.
Earl of Berkshire, n. g.
Earl of Manchester, g.
Earl of Westmoreland, g.
Earl of Denbigh, n. g.
Earl of Northampton, n. g.
Earl of Leicester, g.
Earl of Bridgewater, g.
Earl of Dorset and Middlesex, g.
Earl of Lincoln, g.
Earl of Pembroke, n. g.
Earl of Derby, g.
Marquis of Dorchester, g.
Lord Chamberlain of the Household, g.
Duke of Dover, g.
Duke of Roxborough, g.
Duke of Montross, g.
Duke Hamilton, n. g.
Duke of Buckinghamshire, n. g.
Duke of Bedford, g.
Duke of Leeds, n. g.
Duke of Shrewsbury, n. g.
Duke of Schomberg, g.
Duke of Bolton, g.
Duke of St. Albans, g.

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Duke of Northumberland, n. g.
Duke of Beaufort, n. g.
Duke of Ormond, n. g.
Duke of Grafton, g.
Duke of Richmond, g.
Duke of Cleveland and Southampton, g.
Lord Steward, g.
Lord Privy-Seal, g.
Lord President, g.
Lord Treasurer, g.
Archbishop of York, n. g.
Lord Chancellor, g.

Sacheverell's Collections and other Books burnt.] The Commons also, upon a Complaint made to them of a book intitled, "Collections of Passages referred to by Dr. Sacheverell, in his Answer to the Articles of his Impeachment," ordered the same to be burnt. On the other hand, the Doctor's friends complained to the House, of a Book intitled, "The Rights of the Christian Church, &c." and a defence of it, in two parts, with a Letter from a Country-Attorney to a Country Parson, concerning the Rights of the Church; and Le Clerc's judgment of that book in his Bibliotheque Choisie. All which were condemned to the flames; as was also a Treatise of the word Person, by John Clendon of the Inner-Temple. Not content with this, the Tories moved for an Address for a Fast, to deprecate the divine vengeance, which there was just reason to fear, on account of the horrid blasphemies lately published in the kingdom. Those who supported this motion, thought not only to cast a reflection on the Whigs, as encouragers of such writings, but also to justify what the Doctor had advanced in his Sermon about the danger of the Church, which he had ascribed to the heretical and blasphemous positions lately printed. But their design was easily seen through, and therefore the majority added to the Address, "many of which blasphemies have again, in a most irregular, extraordinary, and insolent manner, been printed, published, and dispersed, throughout the kingdom, to the scandal of good christians, by Dr. Henry Sacheverell." Upon this addition the Tories would have dropped the Address, but it was presented to the queen, who, probably on that account, answered, "That a Fast having lately been observed, she did not think proper to appoint another so soon, but would consider of it at a more convenient time."—As soon as it was known what a mild sentence the Lords had passed upon Dr. Sacheverell, those, who supported him during his Trial, expressed an inconceivable gladness, as if they had got a victory; bon-fires, illuminations, and other marks of joy, appeared not only in London, but over the whole kingdom. However, much greater effects than these rejoicings were produced by it, as will hereafter be seen.*

During the Trial of Sacheverell the following Proceedings took place in the House of Commons.

Resolutions against absent Members.] January 25. The Commons taking into consideration that many of their Members, at that critical juncture, did not attend the service of the House, came to this Resolution:

Resolved, "That such Members of this House, who do absent themselves, without the leave of this House, are to be reputed deserters of their trust, and neglecters of that duty, they owe to this House, and their country."

Resolutions with regard to Public Mournings.] Feb. 2. The matter of a Petition from the cities of London and Westminster, relating to Public Mournings, which had been referred to a Committee, was reported to the House, together with the opinion of the said Committee thereon, which was contained in the following Resolutions:

"1. That it is the opinion of this Committee, that, by reason of the frequent Public Mournings, many thousands of families, employed in the silk and woollen manufactures of this kingdom, have lost their trades and employments, and are become an insupportable burthen to the parishes wherein they inhabit: and if a speedy remedy be not applied, it will endanger the loss of the silk manufacture so beneficial to this kingdom; and at last center in a foreign trade. 2. That the House be moved for leave to bring in a Bill for ascertaining and limiting the time of Public Mournings:" whereupon it was ordered, That leave be given to bring in a bill for ascertaining or limiting the time of Public Mournings. The Bill, however, was thrown out on the 11th.

A Place-Bill passed by the Commons: but rejected by the Lords.] Feb. 4. The Bill for securing the Freedom of Parliaments, by limiting the number of Officers in the House of Commons, was read, passed, and sent up to the Lords, where it was unanimously rejected.

A Speech occasioned by the said Bill.] It was upon this occasion, that the following Speech was delivered in the House of Commons:

"Mr. Speaker;

"What I rise up for is to propose a bill, which may remedy the inconvenience, that the worthy gentleman complains of; a bill, on which the safety of the nation seems to depend, as much as on the success of the war in which we are engaged. The carrying on the war would be throwing away so much treasure, and so many lives, unless at the same time, that we secure our liberties against a foreign enemy, we cannot prevent the danger of their being undermined at home.—If every gentleman's office and employment were added to his name as it is called over, every call of the House would put us on considering, whether some new law is not wanting to lessen the number of such members as possess them? And I am afraid it would now appear to you, that they are more numerous than ever, notwithstanding the several bills, that have passed both Houses, and several others that have passed only this House; by which the sense of the Commons hath been so often declared; though perhaps, not so well as it might have been, had we observed the same order, when many members are personally concerned, that we do, when one member is, by

* Tindal.

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obliging them to withdraw. The opposers of these bills have often been so few in number, that they might be only such as were in employment; and if they had withdrawn, the bills might have passed without a single negative.—Though the civil officers should not be increased, the continuance of the war must make the military officers more numerous and more powerful. Those, who have no other fortune, depending on the war, than the command of a regiment, have nothing else to do but to make a proper disposition in the cloathing of it; by which means such an interest may be made in most of the corporations, as no gentleman in the country is able to resist. Promotions may be made every day in the old regiments, and new ones raised, and a very great share of these preferments falls to this House. The number of such members therefore is so far from being restrained, that it seems likely to increase, as long as the war lasts. The heavier the debt is upon the nation, the more of those who receive the public money will sit here, and impose the taxes, out of which they are paid.—One of the wisest and most flourishing states does not allow any town to chuse a military officer for its representative; and though there is no prerogative in that country, from which they can fear an encroachment on their liberties; yet officers are thought to be improper checks on themselves, or on those who recommend them to their employments.—The corruption of the boroughs is grown to such an height, it is so easy to procure a return, and such a latitude is left by the variety of our own determinations, that whenever any set of ministers think fit to exert themselves, they may bring in so many military officers, as, together with those who have civil employments, may make up a majority.—I hope we shall be consistent with ourselves in what we did the other day, when we came to those Resolutions for preventing the danger of arbitrary power. When a majority can be commanded here, despotic power may be established by law, and resistance be made illegal. To render it, at the same time, lawful for the subject to resist, and easy for a prince to become absolute, is bringing the nation into perpetual danger of war between the king and the people. If so many members should be gained here, as to vote a sufficient army, resistance might be impossible, though it were lawful. But admitting the people would be always able to regain their freedom, it cannot surely be thought more advisable to use the remedy of arms, than to keep our liberties safe in a quiet way. If we take care that there always be a sufficient number here to oppose the ill designs of ministers, there will be never any need of resistance by arms.—It cannot be denied, that, in ill times, places, whether civil or military, will have an influence over ill men. For a member of this House to receive a private pension hath always been esteemed a breach of trust, and a violation of our constitution; and a known pension, during pleasure, excludes a man from sitting here. That a place of little trouble, is as valuable as a pension, of the same yearly income, we see by the great crowd of candidates, on every vacancy, and the high prices that we hear are paid for them.—In a common trial, all persons concerned in interest, are not only excluded from being jurymen, but even their testimony as to matter of fact is not thought fit to be credited; and will an ill man, in ill times, gain nothing by his voting? When a place makes up a considerable part of a man's fortune, is it not plain, that, if the liberty of the subject comes in competition with the prerogative, it will be his own interest to oppose the interest of those, whom he represents? May it not easily happen, that the private advantage of almost every man in office, will be contrary to that of the public? and should a prince become absolute, would they not share amongst them the spoils of their fellow subjects? Is it not their interest more than his, that he should have no controul? But allowing that it would not be for the advantage of some, who have great fortunes of their own, to go into violent measures; yet there may be several cases, in which they may apprehend no great danger in paying a compliment. I hope every gentleman here is satisfied, that, in time of peace, we shall want no greater number of men for guards and garrisons than before the war; but since that establishment hath been increased, a vote must pass, in order to reduce it; and must not many gentlemen, in that case, vote away their own preferment? I do not at all doubt, that several will do it; but if it should be thought proper to increase the number of guards and garrisons, as hath been done in this war, and perhaps without damage to the public (because the greatest part of them have been employed abroad, though indeed the precedent seems dangerous) would any arguments be able to convince such men, as would have their subsistance from the army, that the addition of a few more troops than the last settlement would give us up into the hands of the prince? or that, without such an addition, his civil list might enable him to compass our destruction? If a proposition for granting a civil list were under debate, and the question should be, whether it should be settled for life, or even increased, would such points be properly decided by those, whose salaries were to be paid out of it? Could we depend upon it that men would deduct that part out of their calculation, which would be set aside for their own wages? When men in places are not above being governed by interest, they will certainly be directed by those who prefer them; so that it will be no security to us, that the crown can neither increase nor diminish the number of members; for, as long as it hath the power of raising regiments, and bestowing places and pensions, it may, at any time, take off from those who ought to represent the people, and add to those, who may be induced to represent the court.—But, if we could suppose that places would never influence men; and their sitting here would raise them to more

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generous thoughts than we commonly see in others, I say, if we could be satisfied of this, yet we ought to take all possible care to keep ourselves from any imputation of that kind, and consider that the honour, dignity, and power of this House can only be supported by the opinion which those without doors have of its integrity; for it is not enough to be uncorrupt, unless we have the reputation of being so too. It is to the unblemished conduct and character of those, who have sat here before us, that we owe all the advantages we now enjoy by our constitution. When the good name of parliaments hath declined, their authority hath always been diminished in proportion; and what can be the weight of 500 gentlemen, who are to stand by themselves, as they always will, unless they can convince others, that they are carrying on their interest, as well as their own? —The high opinion, which we all have of the present sovereign, can be no objection to the using our endeavours for obtaining a security against this danger. Were she not entirely in the interests of her people, it would be in vain to hope for any such laws. They are never so likely to be obtained, as when they have the least effect. They are only necessary in a bad reign; and when that comes it is too late to think of them.—But I must take the liberty to say, that, notwithstanding the great confidence, which we all so justly repose in the present sovereign, there never was more reason than now, to provide for our future safety. If we had nothing else to sink us, the debt of the nation is heavier than it ever hath been, and than the nation was ever thought able to bear. The people are extremely weakened by it, and in proportion as the Commons are weakened, the crown advances in its power over them; so, that, although the number of officers here had not been increased, the debt being such as the people were never burthened with before, it imports us more than ever to provide against the danger of any encroachments from the crown. —The landed men are not only lessened in general, but every particular gentleman, the more he feels the weight of taxes, the more he loses of his interest in the country, and the more of that interest is transferred to the persons, who receive their pay out of those taxes. —If we would effectually put the Protestant Succession upon such a foot that it cannot be shaken, we ought to convince men that they will be free, when they are under it. They will always be most zealous in defence of that establishment, under which their liberties are most secure.—There are few gentlemen here, who have not, at one time or other, even since the Revolution, been sensible how necessary it is for our safety to make some provision in this matter. If every man, who hath once been of that opinion, should be so now, a bill for it would pass more unanimously than any, that was ever offered to the House; and if there be some persons, who think our constitution secure for the time to come, as well as the present, it is to be hoped, that they will have so much regard for those, who are of a different opinion, as to remove their apprehensions, and give them some convincing proof, that our great successes abroad will effectually prevent any attempts upon our liberties at home."

Petition respecting the Mine-Adventure.] Feb. 13. A Petition of several creditors and proprietors of principal money, annuities, and shares in the Mine-Adventure of England, on behalf of themselves, and several widows and orphans, members and creditors of the company of the said Mine-Adventure, was presented to the House, and read, praying, "That leave may be given to bring in a Bill to transfer the Management and Government of the Mines into such persons as should be chosen by, and represent the creditors of 125,000*l.*, and by the annuities granted in lieu thereof, and by bonds and sealed bills, subject to such constitutions and regulations, with all necessary provision for the payment of the company's just debts: and that the respective persons having acted in the management of the Mines (as in the Petition is complained of) may be excluded from the further management thereof, and may deliver over all deeds, writings, books, papers, effects and accounts relating to the said Mines, upon oath, to the persons that should hereafter be chosen to manage the same, and might make satisfaction for their management: and that the petitioners might have such other relief (being altogether remediless in the premises elsewhere) as to the House should seem meet." The consideration of this Petition being referred to a committee, upon their report a Bill was ordered to be brought in, for the relief of the creditors and proprietors of the company of Mine-Adventurers of England, and that the management of the Mines be put in the hands of trustees; which was brought in accordingly, and read the first time on the 18th of March.

Resolutions against sir Humphry Mackworth.] Sir Humphry Mackworth, who, by the Report of the committee, appeared to have embezzled a considerable part of the principal money and stock of the Mine-Adventure, having petitioned to be heard by the House, he was on the 23d of March, called in, as were also the counsel for the petitioners, and in part heard, relating to the matters of the said Report. Being withdrawn, a debate arose upon what they had offered, which was adjourned to the 25th, when both sir Humphry Mackworth, and the counsel for the petitioners, were heard again; and the further hearing of them put off to the 28th, then to the next day, then again to the 30th, and so to the 31st; when the Commons came to these unanimous Resolutions: 1. "That it appears to this House, that sir Humphry Mackworth, deputy governor of the company of Mine Adventurers of England, is guilty of many notorious and scandalous frauds, and indirect practices, in violation of the charter, granted to the said company, in breach of his trust, and to the manifest wrong and oppression of the proprietors and creditors of the said company. 2. That William Shiers, secretary

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to the said company, is guilty of many notorious and scandalous frauds, and indirect practices, in confederacy with the said sir Humphry Mackworth, to the wrong and oppression of the said company. 3. That Thomas Dykes, treasurer to the said company, is guilty of many notorious and scandalous frauds, and indirect practices, in confederacy with the said sir Humphry Mackworth, to the wrong and oppression of the proprietors, and creditors of the said company."

After which it was ordered, 1. "That the Report from the committee to whom the Petition of the creditors and proprietors of principal money, annuities, and shares, in the Mine-Adventure of England, was referred, and also the said Resolutions, be printed. 2. 'That a bill be brought in to prevent the said sir Humphry Mackworth, William Shiers, and Thomas Dykes, their leaving this kingdom, and their alienating their estates until the end of the next session of parliament."—But before this Bill could be brought to perfection, the parliament was adjourned.

Address of both Houses desiring the Duke of Marlborough may be sent into Holland.] Feb. 18. The Commons having been informed by sir Gilbert Heathcot, a member of their House, of the advances made by France, towards the renewing a negociation of peace, and that the States General were inclined to grant passes to French plenipotentiaries to come to Holland for that purpose, resolved to present an Address to her majesty, That she would be pleased to send the duke of Marlborough forthwith into Holland. This Address being agreed to, was sent to the Lords; and their lordships having readily joined in it, both Houses presented it to her majesty, being as follows:

"Most gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons in parliament assembled, having reason, to believe, that the negociations of peace will suddenly be renewed in Holland, and being justly apprehensive of the crafty insinuating designs of our enemies to create divisions among your allies, or by amusing them with deceitful expectations of peace, to retard their preparations for war, do think ourselves bound in duty, most humbly to represent to your majesty, of how great importance we conceive it is to the interest of the common cause, that the duke of Marlborough should be abroad at this juncture.—We cannot but take this opportunity to express our sense of the great and unparalleled services of the duke of Marlborough, and with all imaginable duty to applaud your majesty's great wisdom, in having honoured the same person with the great characters of general and plenipotentiary, who, in our humble opinion, is most capable of discharging two such important trusts.

"We therefore make it our request to your majesty, that you would be pleased to order the duke of Marlborough's immediate departure for Holland, where his presence will be equally necessary, to assist at the negociations of peace, and to hasten the preparations for an early campaign, which will most effectually disappoint the artifices of our enemies, and procure a safe and honourable Peace for your majesty and your Allies."

The Queen's Answer.] To this Address the Queen returned the following Answer:

"My Lords and Gentlemen; I am so sensible of the necessity of the duke of Marlborough's presence in Holland, at this critical juncture, that I have already given the necessary directions for his immediate departure; and I am very glad to find, by this Address, that you concur with me in a just sense of the duke of Marlborough's eminent services."*

* "The queen's resolution of changing her ministry had begun to appear very early this year; for in the beginning of January, 1709-10, upon the death of the earl of Essex, she writ to the duke of Marlborough to give his regiment to Mr. Hill, a man who had been extremely ungrateful to the duchess of Marlborough, and whose sister, Mrs. Masham, the duke well knew, was at this time undermining the interest of himself, his family and friends. The scheme of the queen's new counsellors to make her ministers quit her service, or engage her to discard them, now shewed itself without disguise. They durst not tell her at once all they designed; but, proposing to her only one thing at a time, led her, by insensible degrees, to the accomplishment of the whole. They began, as has been related, with engaging her to nominate persons to bishoprics, without consulting her ministers. And now they prevailed with her to appoint military officers, without advising with her general. And nothing could be more to their purpose, than this choice of Mr. Hill for lord Essex's regiment, because they knew, that nothing could be more disagreeable to the duke of Marlborough, or would tend more to lessen his weight and authority in the army, and consequently at home too. The new counsellors saw, that if the duke readily yielded in this matter, it would sow discontent among the officers; and that a door would be opened for his enemies to come into the army, and insult him. And on the other hand, if the duke should not comply, or should shew any reluctance in complying, this would furnish an excellent pretence for grievous complaints, that the queen was but a cypher, and would do nothing. Upon the queen's letter, the duke waited on her, and with all humility represented to her, what a prejudice it would be to her service, to have so young an officer preferred before so many others of higher rank and longer service: besides, that the shewing so extraordinary and partial favour to Mrs. Masham's brother could be interpreted no otherwise, than as a declaring against all those, who had so much reason to be uneasy with her; and that, indeed, it would be setting up a banner for all the discontented persons in the army to repair to. In short, the duke said every thing he

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Bill to regulate the trade to Africa.] The House having several times in a grand committee taken the Trade to Africa into further consideration, ordered a Bill for settling that Trade to be brought in, which, after the hearing of the counsel, both for the Royal African

could think of, and with all the moving concern that the nature of the affair created in him, to engage her to change her resolution. But all seemed to no purpose. He could not draw one kind expression from her, nor obtain any answer, but 'that he would do well to advise with his friends.'

"The earl of Godolphin spoke often to her upon the same subject, representing to her the duke's long, great and faithful services, and the very bad influence which her intended favour to Mr. Hill must necessarily have in the army. But neither had this so much effect as to engage her to say one favourable word about the duke. Wherefore on the 15th of January he left the town, and went to Windsor in great discontent. It was council-day. The queen did not ask where he was, nor take the least notice of his absence. His withdrawing himself made a great deal of noise in the town. Many of the nobility spoke with earnestness to the queen of the very ill consequences of mortifying a man, who had done her so long and important services. She answered, that his services were still fresh in her memory, and that she had as much kindness for him as ever she had. The noise, however, still continued and increased, and there was great discourse, not without probability, that some notice would be taken of the matter in the House of Commons, and some votes passed disagreeable to the queen and her new counsellors. This design was laid to the duchess of Marlborough's charge; but she said enough to the queen to vindicate herself. And indeed it was owing to the duke's particular friends in the House, that no such notice was taken.

"The new counsellors being alarmed with apprehensions of what the parliament might do, and believing that they should be able at a proper season, to make better use of the queen's yielding up the point, than of her insisting upon it, gave her advice accordingly; so that on the 20th of January, she ordered the earl of Godolphin to write to the duke, 'that he might dispose of the regiment as he himself thought fit;' and to desire him to come to town. But before this reached the duke, he had written the following letter to the queen:

"'Madam,

"'By what I hear from London, I find your 'majesty is pleased to think, that when I have 'reflected I must be of opinion, that you are 'in the right in giving Mr. Hill the earl of Essex's regiment. I beg your majesty will be so 'just to me, as not to think I can be so unreasonable as to be mortified to the degree that I 'am, if it proceeded only from this one thing; 'for I shall always be ready and glad to do 'every thing that is agreeable to you, after I 'have represented what may be a prejudice to 'your service. But this is only one of a great 'many mortifications that I have met with. 'And as I may not have many opportunities of 'writing to you, let me beg of your majesty to 'reflect what your own people and the rest of 'the world must think, who have been witnesses of the love, zeal and duty with which I 'have served you, when they shall see that 'after all I have done, it has not been able to 'protect me against the malice of a bed-chamber woman. Your majesty will allow me on 'this occasion to remind you of what I writ to 'you the last campaign, of the certain knowledge I had of Mrs. Masham's having assured 'Mr. Harley, that I should receive such constant mortifications, as should make it impossible for me to continue in your service. God 'Almighty and the whole world are my witnesses, with what care and pains I have served you for more than twenty years; and was 'resolved, if possible, to have struggled with 'the difficulties to the end of this war. But 'the many instances I have had of your majesty's great change to me has so broke my spirits, that I must beg, as the greatest and last 'favour, that you will approve of my retiring, 'so that I may employ the little time I have to 'live, in making my just acknowledgments to 'God for the protection he has been pleased to 'give me. And your majesty may be assured, 'that my zeal for you and my country is so 'great, that in my retirement I shall daily pray 'for your prosperity, and that those who shall 'serve you as faithfully as I have done, may 'never feel the hard return that I have met 'with.'

"The queen wrote the duke an answer, expressing some concern at several parts of his letter, assuring him, without entering into particulars, that he had no ground for suspicions, and desiring him to come to town. But fearing at the same time, that some motion might be made in parliament against Mr. Masham, which might be attended with very disagreeable consequences, she sent about in much concern to many persons to stand by her, as if some great attack was going to be made upon her. This application, and the closeting some persons, who were known enemies to the Revolution, gave encouragement to the Jacobites; several of whom were now observed running to court with faces full of business and satisfaction, as if they were going to get the government into their hands. And this being represented to the queen, as a kind of victory gained by her over the Marlborough family, was doubtless one means of hindering all thoughts of a real accommodation.

"In about a month after this it was, that both Houses of Parliament addressed the queen, to order the duke of Marlborough over into Holland, to attend to the great affair of a peace, and in case that project did not take effect, to prepare for an early opening the campaign. In her Answer to this Address (as hath been said)

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Company, and for the separate traders, was read a second time, and committed to a committee of the whole House; to whom an instruction was given to receive a clause or clauses, to provide 'for the instructing of the 'negroes in the plantations, in the knowledge 'of the Christian religion:' But this Bill was never brought to perfection, and the only thing the Commons did in favour either of the Company or separate traders, was the voting of an Address to her majesty, "That she would be pleased to give directions, That such ships of war be appointed for protecting the trade to Africa, as might be necessary for the preservation and security thereof."

A Supply granted.] The Commons made good their assurances to the queen, for in less than a month they granted all the necessary supplies for the next year's service, amounting to 6,184,466*l.* 7*s.* Of this sum, 1,500,000*l.* were raised by way of lottery, and the rest put on good funds.

The Queen's Speech at the Close of the Session.] April 5. The Queen came to the House of Peers, and after giving her assent to several bills, made the following Speech to both Houses:

"My Lords and Gentlemen; It is with great satisfaction that I come hither at this time to return you my hearty thanks for the marks of duty and affection which you have given me through the whole course of this session. And I am to thank you, gentlemen of the House of Commons, in a very particular manner, for the great dispatch which you have made, in providing, so early in the year, such great and effectual supplies for the public service: This cannot but make me very desirous to repeat the assurances I gave you at the opening of the session, that they should be very carefully applied to the uses for which you have designed them.—My Lords and Gentlemen; I cannot sufficiently express to you my great concern that you have had so necessary an occasion of taking up a great part of your time towards the latter end of this session.—I am confident no prince that ever sate on the throne has been more really and sincerely kind to the church than myself, nor ever had a more true and tender concern for its welfare and prosperity than I have and always shall continue to have.—The suppressing Immorality, and prophane and other wicked and malicious libels, is what I have always earnestly recommended, and shall be glad of the first opportunity to give my consent to any laws that might effectually conduce to that end: But this being an evil complained of in all times, it is very injurious to take a pretence from thence to insinuate that the church is in any danger from my administration.—I could heartily wish that men would study to be quiet, and do their own business, rather than busy themselves in reviving questions and disputes of a very high nature, and which must be with an ill intention, since they can only tend to foment, but not to heal our divisions and animosities.—For my own part, as it has pleased God to give success to my endeavours for the Union of my two kingdoms, which I must ever esteem as one of the greatest blessings of my reign, so I hope his divine goodness will still continue favourable, and make me the happy instrument of that yet more desirable Union of the hearts of all my people in the bonds of mutual affection, that so there may remain no other contention among you, but who shall exceed the other in contributing to advance our present happiness, and secure the Protestant Succession.—Finding by the advices from abroad, that our army has not yet taken the field, and that the plenipotentiaries of France are still in Holland, I think it proper at present to make the prorogation but for a very short time*."

After which, the Lord Chancellor, by her majesty's command, prorogued the parliament

she used these words: 'I am very glad to find, 'that you concur with me in a just sense of the 'duke of Marlborough's eminent services.' But notwithstanding this, he had not been long gone, before she gave a signal proof how much his declared enemies were in her favour, by granting Mr. Hill a pension of 1,000*l.* a year; and in some time, she made both him and Mr. Masham, men of little or no service, general officers over the heads of many brave men, who had frequently hazarded their lives in her service, and had gone through the toils and hardships of a tedious war.

"In the mean time the duchess of Marlborough learnt, that the queen was made to believe, that she often spoke of her in company disrespectfully: upon which she desired an audience, in order to justify herself, which she obtained on the 6th of April; but could make no impression upon the queen, whom she never saw afterwards, nor ever had any correspondence with her majesty, except on two occasions relating to the public. However, notwithstanding this thorough alienation of the queen's affections from the duchess, she was not yet divested of her employments; it being, perhaps, not yet determined, who should succeed her, nor whether it were proper, that the duke of Marlborough should have that mortification, before the season was fully ripe for the execution of the new scheme; though it now was greatly advanced." Tindal.

* "In the beginning of April the parliament was prorogued, and the queen in her speech thereupon, expressed her concern, that there was cause given for that, which had taken up so much of their time, wishing that all her people would be quiet, and mind their own business; adding, that in all times there was too much occasion given to complain of impiety; but that she would continue that zeal, which she had hitherto expressed for religion, and for the church: this seemed to look a different way from the whispers that had been set about. Soon after that, she made a step that revived them again." Burnet.

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until Tuesday the 18th instant, when it was further prorogued.

"During this winter," continues Burnet, "as I was encouraged by the queen, to speak more freely to her of her affairs, than I had ever ventured to do formerly, I told her what reports were secretly spread of her through the nation, as if she favoured the design of bringing the Pretender, to succeed to the crown, upon a bargain that she should hold it during her life: I was sure these reports were spread about by persons, who were in the confidence of those, that were believed to know her mind; I was well assured, that the Jacobites of Scotland had, upon her coming to the crown, sent up one Ogilby of Boyne, who was in great esteem among them, to propose the bargain to her; he, when he went back, gave the party full assurances that she accepted of it: this I had from some of the lords of Scotland, who were then in the secret with the professed Jacobites. The Earl Cromarty made a speech in parliament, as was formerly mentioned, contradicting this, and alluding to the distinction of the Calvinists, made between the secret and the revealed will of God; he assured them, the queen had no secret will, contrary to that which she declared: yet at the same time his brother gave the party assurances to the contrary. I told the queen all this: and said, if she was capable of making such a bargain for herself, by which her people were to be delivered up and sacrificed after her death, as it would darken all the glory of her reign, so it must set all her people to consider of the most proper ways of securing themselves by bringing over the Protestant Successors; in which, I told her plainly I would concur, if she did not take effectual means to extinguish those jealousies. I told her, her ministers had served her with that fidelity, and such success, that her making a change among them would amaze all the world. The glory of queen Elizabeth's reign arose from the firmness of her counsels, and the continuance of her ministers; as the three last reigns, in which the ministry was often changed, had suffered extremely by it. I also shewed her, that if she suffered the Pretender's party to prepare the nation, for his succeeding her, she ought not to imagine, that when they thought they had fixed that matter, they would stay for the natural end of her life; but that they would find ways to shorten it: nor did I think it was to be doubted, but that in 1708, when the Pretender was upon the sea, they had laid some assassinates here who, upon the news of his landing, would have tried to dispatch her. It was certain, that their interest led them to it, as it was known that their principles did allow of it. This, with a great deal more to the same purpose, I laid before the queen; she heard me patiently; she was for the most part silent: yet, by what she said, seemed desirous to make me think, she agreed to what I laid before her; but I found afterwards it had no effect upon her: yet I had great quiet in my own mind, since I had, with an honest freedom, made the best use I could of the access I had to her."

PRINCIPAL OCCURRENCES DURING THE RECESS—*The Duke of Shrewsbury made Lord Chamberlain—The Queen's Letter thereon to the Earl of Godolphin—The Earl's Answer—The Earl of Sunderland dismissed—The Lord Dartmouth made Secretary of State—The Tories elated at this Change—The Whigs alarmed at it—The Bank interfere in favour of the Ministry—The Earl of Godolphin dismissed—Sacheverell's Progress into Wales—The Parliament dissolved—Other Changes in the Ministry—The Lieutenancy of London changed—Progress of the Elections.*

"The duke of Shrewsbury," says Tindal, "who had voted for the acquittal of Sacheverell, was appointed Lord Chamberlain in the room of the marquis of Kent, who was made a duke. The duke of Shrewsbury had gone out of England, towards the end of the reign of king William, thinking, as he gave out, that a warmer climate was necessary for his health. He staid several years at Rome, where he became acquainted with a Roman lady; who, upon his leaving Rome to return to England, went after him to Augsburg, where she overtook him, and declared herself a Protestant; upon which he married her there, and came with her back to England in 1706. Upon his return, the Whigs lived in civilities with him; but they thought his leaving England, and his living so long out of it, while the nation was in so much danger, and his strange marriage, gave just cause of suspicion. The duke of Marlborough and the lord Godolphin lived still in friendship with him, and studied to overcome the jealousies, that the Whigs had of him; for they generally believed, that he had advised king William to the change, which he made in his ministry towards the end of his reign. He seemed not to be concerned at the distance, in which he was kept from business; but, as was observed above, in the trial of Dr. Sacheverell, he left the Whigs in every vote; and the change of his principles, which he had discovered by this, was imputed to a secret management between him and Mr. Harley with the new favourite. But, before the queen declared her intention for giving him the Lord-Chamberlain's staff, she thought fit, for form sake, and perhaps to cover her further designs, to communicate her resolution to the earl of Godolphin, who, being then at Newmarket, sent a letter to the queen; to which her majesty wrote with her own hand, on the 13th of April, the following answer:

"'I am sorry to find by your letter, you are 'so very much in the spleen, as to think you 'cannot, for the future, contribute any thing 'towards my quiet but your wishes. However 'I will still hope you will use your endeavours. 'Never was there more occasion than now;

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'for by all one hears and sees every day, as 'things are at present, I think one can expect 'nothing but confusion. I am sure, for my 'part, I shall be ready to join with all my 'friends in every thing, that is reasonable, to 'allay the heat and ferment, that is in this poor 'nation. Since you went to Newmarket, I 'have received several assurances from the 'duke of Shrewsbury of his readiness to serve 'me upon all occasions, and his willingness to 'come into my service; which offer I was very 'glad to accept of; having a very good opinion 'of him, and believing he may be of great use 'in these troublesome times. For these rea-'sons I have resolved to part with the duke of 'Kent, who, I hope, will be easy in this matter 'by being made a duke; and, I hope, that 'this change will meet with your approbation, 'which I wish I may ever have in all my ac-'tions. I have not yet declared my intentions 'of giving the staff and the key to the duke of 'Shrewsbury, because I would be the first that 'should acquaint you with it."

"The Lord-Treasurer, who well understood the meaning, and foresaw the consequences of such a change, wrote to the queen the following letter:

"Newmarket, April 15, 1710.

"'I have the honour of your majesty's letter 'of the 13th, by which I have the grief to find 'that what you are pleased to call spleen in my 'former letter, was only a true impulse and 'conviction of mind, that your majesty is suf-'fering yourself to be guided to your own ruin 'and destruction, as fast as it is possible for 'them to compass it, to whom you seem so 'much to hearken.—I am not therefore so 'much surprized, as concerned at the resolu-'tion which your majesty says you have taken 'of bringing in the duke of Shrewsbury. For 'when people began to be sensible, it would 'be difficult to persuade your majesty to dissolve 'a parliament, which for two winters together 'had given you above six millions a year 'for the support of a war, upon which your 'crown depends; even while that war is 'still subsisting, they have had the cunning 'to contrive this proposal to your majesty, 'which, in its consequence, will certainly put 'you under a necessity of breaking the parlia-'ment, though contrary (I yet believe) to your 'mind and intention.—I beg your majesty to 'be persuaded, I do not say this out of the 'least prejudice to the duke of Shrewsbury, 'There is no man, of whose capacity I have 'had a better impression; nor with whom I 'have lived more easily and freely for above 'twenty years. Your majesty may please to 'remember that, at your first coming to the 'crown, I was desirous he should have had 'one of the chief posts in your service; and 'it would have been happy for your ma-'jesty and the kingdom, if he had accepted 'that offer. But he thought fit to decline it; 'and the reasons generally given at that time 'for his doing so, do not much recommend 'him to your majesty's service. But I must 'endeavour to let your majesty see things as 'they really are: and to bring him into your 'service and into your business at this time, 'just after his being in a public open conjunc-'tion in every vote with the whole body of 'the Tories, and in a private constant corres-'pondence and caballing with Mr. Harley in 'every thing, what consequence can this pos-'sibly have, but to make every man, that is 'now in your cabinet council, except ——, to 'run from it, as they would from the plague? 'And I leave it to your majesty to judge, 'what effect this intire change of your mi-'nisters will have among your allies abroad; 'and how well this war is like to be carried 'on, in their opinion, by those who have all along 'opposed and obstructed it, and who will like 'any peace the better, the more it leaves France 'at liberty to take their time of imposing the 'Pretender upon this country.—These consi-'derations must certainly make Holland run 'immediately into a separate peace with 'France, and make your majesty lose all the 'honour and all the reputation your arms had 'acquired by the war: and make the kingdom 'lose all the fruits of that vast expence, which 'they have been at in this war, as well as all 'the advantage and safety, which they had so 'much need of, and had so fair a prospect of 'obtaining by it. And can any body imagine, 'that, after so great a disappointment to the 'kingdom, there will not be an inquiry into, 'the causes of it; and who have been the oc-'casion of so great a change in your majesty's 'measures and counsels, which had been so 'long successful, and gotten you so great a 'name in the world? I am very much afraid 'your majesty will find, when it is too late, 'that it will be a pretty difficult task for any 'body to stand against such an inquiry. I am 'sure, if I did not think all these consequences 'inevitable, I would never give your majesty 'the trouble and uneasiness of laying them 'before you. But persuaded as I am, that 'your majesty will find them so, it is my indis-'pensable duty to do it out of pure faithfulness 'and zeal for your majesty's service and honour. 'Your majesty's having taken a resolution of 'so much consequence to all your affairs, both 'at home and abroad, without acquainting the 'duke of Marlborough or me with it till after 'you had taken it, is the least part of my 'mortification in this whole affair, though 'perhaps the world may think the long and 'faithful services we have constantly and 'zealously endeavoured to do your majesty, 'might have deserved a little more considera-'tion. However, for my own part I most 'humbly beg leave to assure your majesty, I 'will never give the least obstruction to your 'measures or to any ministers you shall please 'to employ. And I must beg further, to make 'two humble requests to your majesty: the 'one, that you will allow me to pass the re-'mainder of my life always out of London, 'where I may find most ease and quiet. The 'other, that you would keep this letter, and

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'read it again about next Christmas, and then 'be pleased to make your own judgment, who 'hath given you the best and most faithful 'advice.'

"This Letter made no impression upon the queen, who, two days before she received it, being already fixed in her choice, delivered, on the 14th of April, the staff and key to the duke of Shrewsbury, who gave the ministers very positive assurances, that his principles were the same they had been during the last reign, and were in no respect altered. Upon which he desired to enter into confidences with them; but there was now too much ground given for suspicion."

"About the beginning of June, the design of turning out the earl of Sunderland* from the post of secretary of state, began to be talked of. As soon as this design reached the duke of Marlborough, who was then abroad at the head of the army, he wrote a very moving letter to the queen, representing the very ill consequences it would necessarily have upon all affairs abroad, to have his son-in-law, against whose fidelity nothing could be objected, and in whom the allies had so entire a confidence, turned out of her service in the middle of a campaign; and begging it as a reward of all his past services, that she would at least delay her resolution till the campaign was ended. The duchess of Marlborough was likewise urged by some friends to try to say something, to divert, if possible, such a stroke; because it was given out, that the queen would do this chiefly on the duchess's account, that she might feel the effects of her displeasure in so sensible and tender a point. No consideration, proper to herself, could have induced the duchess to trouble the queen again after that last conversation: but she was overcome by the consideration of the duke of Marlborough, the earl of Sunderland, and the public interest, and wrote to the queen, on the 7th of June, 1710, begging, for the duke of Marlborough's sake, that her majesty would not give him such a blow, of which she dreaded the consequence; putting her majesty in mind of her letter about the duke, upon the victory at Blenheim; and adding the most solemn assurances, that she had not so much as a wish to remove Mrs.

* "Son of Robert, second earl of Sunderland, minister to both brothers, Charles 2 and James 2. Queen Anne sent him on embassies, and made him a commissioner for the Union; and, when he was left out of the administration, she offered him a pension, which he nobly refused. George 1, to whom he was personally known before his accession, raised him successively to the highest offices in the state, and gave him the order of the garter; and he was thought to have gained the same ascendancy over the mind of George 1, as his father had possessed over that of James 2. He died April 29, 1722; it was said, fortunately for the House of Brunswick, being as treacherous to them as his father had been to the Stuarts. He had been one of the council, groom of the stole, privy seal, vice-treasurer of Ireland, secretary of state, president of the council, first commissioner of the treasury, twice lord justice of England under the king; but he retired so entirely disgusted, that nothing could have induced him to resume the great offices he had resigned. How different was this conduct to that of his mother-in-law, who interceded, by letter, to queen Anne, to restore him to his employments; that proud duchess, soliciting it, as she expressed herself, 'upon her knees.' Of the abilities of the earls of Sunderland there can be no doubt. The treachery of the one stands unrivalled. The other died, fortunately, perhaps, for his reputation. It is, however, to his honour, that, with all his opportunities, he never increased his patrimonial inheritance. His lordship loved and cherished learning, and his extensive library was selected with great judgment. His wives were, Arabella, youngest daughter and co-heir of Henry Cavendish, duke of Newcastle; Anne, daughter of John, duke of Marlborough; and Judith, daughter and co-heir of the honourable Benjamin Tichborne. By the first he had only a daughter; by the second, Robert, fourth earl of Sunderland; Charles, the fifth earl, who dying unmarried, was succeeded in that title by his brother, who became, by maternal descent, duke of Marlborough; a nobleman as good as great. The earls Spencer descend also from this marriage. By the last alliance were several children: the youngest was posthumous, William, the eldest of them, dying at two years of age, only two days after the earl his father, was buried with him at Brington: his death was owing to having had 'the small-pox inocu-'lated upon him.' Mackay describes lord Sunderland as being 'very fair complexioned, and 'of a middle stature.'" Noble's Granger.

"It seems to have been the earl of Sunderland's fortune to have learned his divinity from his uncle, and his politics from his tutor (Dr. Trimnell.) It may be thought a blemish in his character, that he has much fallen from the height of those republican principles, with which he began; for in his father's life time, while he was a member of the House of Commons, he would often, among his familiar friends, refuse the title of lord, (as he has done to myself) swear he would never be called otherwise than Charles Spencer, and hoped to see the day when there should not be a peer in England. His understanding, at the best, is of the middling size; neither has he much improved it, either in reality, or, which is very unfortunate, even in the opinion of the world, by an overgrown library. It is hard to decide, whether he learned that rough way of treating his sovereign, from the lady he is allied to, or whether it be the result of his own nature. The sense of the injuries he has done, renders him (as it is very natural) implacable towards those, to whom he has given greatest cause to complain; for which reason, he will never forgive either the queen or the present treasurer." Swift's Four Last Years of the Queen.

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Masham; and that all the noise, which had been about an address for that purpose, had been occasioned by the duke of Marlborough's discontents at that time. To this the queen wrote a very short and harsh answer, complaining, that the duchess had broke her promise of not saying any thing of politics or of Mrs. Masham, and concluding, that it was plain from this ill usage, what she was to expect for the future. The duchess upon this wrote a second letter, in which she assured her majesty, that she should not have troubled her with the first, but that she had heard it reported, that the persecution, begun against the duke of Marlborough and his family, was chiefly occasioned by her majesty's displeasure and aversion to her, as having promoted an address against Mrs. Masham: that it was only to vindicate herself from that aspersion, that she had presumed to trouble her majesty: that she could not imagine it could be interpreted as an offence, to vindicate herself from what was now made the pretence for turning out the earl of Sunderland, and pushing the duke of Marlborough to extremities: that she had no reason to think, that the assuring her majesty, that she would never have any hand in any thing against Mrs. Masham, could have been construed as an ungrateful speaking about her, or called a continuation of ill usage: that she thought this was rather a complying with her majesty's inclination, and saying what she could not but approve: that all the politics in her letter was her concern for the duke; making it her last request, that her majesty would only defer the blow till the end of the campaign. This (she added) she begged upon her knees, and left her majesty to judge, whether, after such an expression, it was likely that she should ever enter into any thing that could displease her.*

"Whether the duchess's interfering in this matter, hastened the execution of the design, is not known; but it is certain, that it did not retard it, for lord Sunderland was, on the 14th of June, dismissed the office, and the seals given, the next day, to the lord Dartmouth, one of the lords commissioners of trade and plantations, and son-in-law to the earl of Nottingham.

"The High-Church party were much pleased and elated upon this alteration, which they looked upon as a sure forerunner of greater changes; "extolling the queen for asserting her just prerogative, and setting herself free from an arbitrary junto, who kept her in an inglorious dependence on their will and caprice." And it was said, the duke of Beaufort, being about this time come to court to pay his respects to her majesty, told her, "That he was extremely glad he could now salute her queen." On the other hand, the Whigs were the more alarmed, as the best part of their wealth was lodged in the Exchequer and public funds; and, as they rightly considered, that the removal of the earl of Sunderland was but a step to come at the lord-treasurer, in whose capacity, punctuality, and integrity, the monied men reposed an intire confidence; and they foresaw, that his being laid aside would very much affect the public credit, as it immediately did. Whereupon, sir Gilbert Heathcote, governor of the Bank of England; Nathaniel Gould, deputy-governor; Francis Eyles and sir William Scawen, two of the directors, made their application to the duke of Newcastle, lord privy-seal, to whom, having represented the dangers likely to attend the change of the ministry, the duke introduced them to the queen, who told them, "That she, for some time before, had resolved to remove the earl of Sunderland for particular reasons of state; but that she had not yet determined to make any other changes; and, whenever she should, she would take care that

* "Perhaps it may be conjectured, that if on the dismission of Sunderland, which was sure to be followed by other changes, notwithstanding the positive assurances of the queen to the contrary, Godolphin and all his friends had instantly resigned their places, and if the duke of Marlborough had given up his command of the army, so unanimous and bold a measure would have dispirited the queen, and alarmed the Tories. Under these impressions she could not have ventured to make a sudden and total change; she would probably have been checked by the apprehension of alienating the whole party of the Whigs, who then formed a large majority in parliament, and of disgusting the monied men, many of whom made the public credit personal to Godolphin, and scrupling to advance money upon the faith of the nation, offered it upon his single word. She would have dreaded the remonstrances of the Emperor and the Dutch, who justly considered the great successes of the war as principally owing to the military talents of Marlborough. Such was the opinion of Walpole; and sir Richard Temple, afterwards lord Cobham, expressed his sentiments in favour of a general resignation, in a spirited letter to his friend Walpole, with whom he then acted, and by whom he had been strongly recommended to the duke of Marlborough. But, both Walpole and his brother Horace foresaw and lamented that the Whigs, instead of adopting this decisive and manly conduct, would be divided among themselves, and that several would listen to the insidious overtures of Harley. In effect, that artful minister flattered them with the hopes that the parliament would not be dissolved, and representing the danger which would threaten the constitution and religion, should their whole body desert the queen, he used the remarkable expressions, 'That a Whig game was intended at the bottom,' and that his great object would be to promote the Protestant Succession. These representations and promises had a due effect, and helped to break the phalanx, which, had it remained firm and compact, must have been invincible." Coxe's Walpole.

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the public credit might not be injured thereby." Upon this it was reported, the queen had declared, she designed to make no more alterations in the ministry, which immediately restored the public funds to their former value; but they soon began to fall again, and many foreigners withdrew their effects from England, upon a strong report, that not only the lord-treasurer would be laid aside, but even the parliament dissolved.

"On the 3th of August, the very day after the queen had expressed her desire to the earl of Godolphin himself, that he would continue in her service, she dismissed him; and her letter of order to him to break his staff, was sent by no worthier a messenger than a man in a livery, to be left with his lordship's porter. The queen indeed confessed to those, who expostulated with her upon this occasion, "That she was sorry for it, but could not help it." The next day it was declared, that the queen had appointed earl Paulet, Mr. Robert Harley, Mr. Henry Paget, sir Thomas Mansel, and Mr. Robert Benson, Commissioners of the Treasury. Though lord Paulet was the first in form, Mr. Harley* was the person with whom the secret was lodged; and it was visible, he was the chief minister, being at the same time made chancellor and under-treasurer of the Exchequer, in the room of Mr. Smith, who was afterwards made a Teller of the Exchequer. And now it appeared, that a total change of the ministry, and the dissolution of the parliament, were resolved on.

"In the mean while Dr. Sacheverell, being presented to a benefice in North-Wales, went down to take possession of it: as he passed through the counties, both going and coming, he was received and followed by such numbers, and entertained with such magnificence, that our princes in their progresses have not been more run after than he was. Great fury and violence appeared on many occasions, though care was taken to give his followers no sort of provocation: he was looked on as the champion of the church; and he shewed as much insolence on that occasion, as his party did folly. No notice was taken by the government of all these tumultuous proceedings; they were rather encouraged than checked. All this was like a prelude to a greater scene, which was to be acted at Court.

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* "Robert Harley, esq. son of sir Edward Harley, knt. was born near Covent Garden, London, Dec. 5, 1661, and educated at Shilton, near Burford, Oxfordshire. He was first chosen member of parliament for Tregony, and afterwards for Radnor. He became Speaker of the House of Commons in 1701, which dignity he held during three successive parliaments. In April 1704 he was sworn of the privy-council, and in May following one of the principal Secretaries of State to queen Anne. In 1710 he was constituted a commissioner of the Treasury, and chancellor and under-treasurer of the Exchequer. In March 1711 he received a stab with a penknife from Antoine de Guiscard, a French refugée, while under examination of the privy-council. On his recovery he was advanced to the peerage by the stile and titles of baron Harley, earl of Oxford and earl Mortimer, and appointed Lord High-Treasurer of Great-Britain. In 1712 he was elected a Knight companion of the order of the Garter, and installed at Windsor the year following. After the death of queen Anne his lordship's career of greatness received a check, and he was impeached by the House of Commons, on June 10, 1715, of high-treason, and high-crimes and misdemeanors. On July 16 he was committed to the Tower by the House of Lords, where he suffered a severe confinement till July 1, 1717, when after a public trial he was unanimously acquitted by his peers. After his lordship's decease, on May 21, 1724, a splendid character was given of him, which may be seen in Collins's Peerage; and Pope has embalmed his memory with never-dying verse, in a dedicatory epistle to Parnell's poems, which were published after lord Oxford's imprisonment in the Tower and his subsequent retreat into the country,—where he was

"Pleas'd to escape from flattery to wit:"

yet in vain, said the "poet of reason," and we may add, of passion too:

"In vain to deserts thy retreat is made;
The Muse attends thee to thy silent shade:
'Tis hers, the brave man's latest steps to trace,
Rejudge his acts, and dignify disgrace.
When Interest calls off all her sneaking train,
And all th' oblig'd desert, and all the vain;
She waits, or to the scaffold, or the cell,
When the last lingering friend has bid farewell.
Ev'n now, she shades thy ev'ning walk with bays,
(No hireling she, no prostitute to praise),
Ev'n now, observant of the parting ray,
Eyes the calm sunset of thy various day,
Through fortune's cloud one truly great can see,
Nor fears to tell, that Mortimer is he."

"From such a picture of this peer, we naturally infer that he was a very great as well as good man: yet he has been represented by others as very remote from either goodness or greatness; and particularly by lord Bolingbroke in his letter to sir William Windham, where the portrait given of him is not only mean but odious. It may therefore be reasonable to suppose that lord Oxford had his alloy of infirmities, notwithstanding the fine things said for him; and it is equally reasonable not to believe all that a rival minister has said against him, especially after they had disagreed. He appears to have been a great encourager of literature; and the greatest collector in his time of all curious books in print or manuscript, especially those concerning the history of his own country. He was also a person of taste and learning, under which character we find a proposal addressed to him by Swift, for correcting, improving, and ascertaining the English tongue." Park's enlarged edition of Orford's Noble Authors, vol. 4. p. 109.

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"The queen in September came to council, and called for a proclamation to dissolve the parliament,* which sir Simon Harcourt (made Attorney-General in the room of sir James Montague, who had quitted that post) had prepared. When it was read, the lord-chancellor† Cowper offered to speak; but the queen rising up would admit of no debate, and ordered the writs for a new parliament to be got ready.

* "Mr. Harley, with whom the queen chiefly consulted about the new arrangements, was probably desirous to unite with the principal members of the Whig administration, upon the condition of their agreeing to measures for compelling the allies to a strict performance of their engagements, and of their listening to reasonable terms of peace, by which it was understood, that every possible security should be obtained for the Protestant Succession. Agreeably to this system, the queen at first dismissed only a few of the Whigs, and when those who still remained in office obstinately refused to agree to any compromise or coalition, and even put her majesty at defiance, by resorting to foreign interposition for maintaining their power, her pride and resentment were roused to make a complete change of her servants; and this necessarily led forward to a premature and unexpected dissolution of the present parliament, which probably did not enter into the original plan of her advisers. The Junto had the entire command of the House of Commons; and a reliance upon its support, still more than the patronage of the allies, inspired them with confidence of being able to render the schemes of the new ministers abortive, and of soon resuming the supreme direction of affairs. The dissolution of parliament alone could baffle their hopes; and as this was an unprecedented measure, and disapproved of by some persons lately promoted, who had the greatest influence with her majesty, they were the less apprehensive of its being carried into execution. In these expectations, however, they found themselves disappointed. Proclamations were issued for dissolving the parliament, and calling another to meet on the 25th November." Somerville.

† William Cowper, esq. soon after being called to the bar, was appointed one of king William's counsel; he succeeded sir Nathan Wrighte, as lord keeper of the great seal, Oct. 11, 1705; was created baron Cowper of Wingham, Nov. 9, 1706; and appointed lord chancellor, May 4, 1707; which post he held till Sept. 14, 1710. On the accession of king George, he was again appointed lord chancellor, and, on resigning the great seal, was created viscount Fordwich, and earl Cowper, March 18, 1717-18. He nobly refused to accept new-years-gifts from the counsellors at law, which had long been given to his predecessors; and what is still more to his honour, foresaw and opposed the destructive measures of the South Sea bubble in 1720. He died Oct. 10, 1723.

"Ambrose Philips composed a long ode on his death, which thus speaks of his incorrupt judicial character:

"He the robe of justice wore
Sullied not as heretofore,
When the magistrate was sought
With yearly gifts. Of what avail
Are guilty hoards? for life is frail;
And we are judged where favour is not bought.

"Collins explains this poetic encomium by informing us, that earl Cowper was the first who refused the new year's gifts which former lord-chancellors received from the counsel, thinking it a custom which tended to corruption; and his example has been followed by all his successors in that high station. Mr. Seward relates, that when it was requisite for Richard Cromwell to appear at Westminster-hall, respecting the manor of Horsley, the humane lord-chancellor Cowper ordered a chair for him in court, and desired him to keep on his hat: and Mr. Hayley observes, 'that knowledge, eloquence, and political importance, conspired to aggrandize the man who added the name of Cowper to the list of English nobility.'" Park's Orford, vol. 4, p. 102.

"The lord Cowper, although his merits are later than the rest, deserves a rank in this great council. He was considerable in the station of a practising lawyer: but, as he was raised to be a chancellor and a peer, without passing through any of the intermediate steps, which in late times had been the constant practice, and little skilled in the nature of government, or the true interest of princes, farther than the municipal or common law of England; his abilities, as to foreign affairs, did not equally appear in the council. Some former passages of his life were thought to disqualify him for that office, by which he was to be the guardian of the queen's conscience; but these difficulties were easily overruled by the authors of his promotion, who wanted a person that would be subservient to all their designs; wherein they were not disappointed. As to his other accomplishments, he was what we usually call a piece of a scholar, and a good logical reasoner; if this were not too often allayed, by a fallacious way of managing an argument, which made him apt to deceive the unwary, and sometimes to deceive himself." Swift's Four Last Years of the Queen.

"On his resignation, Lord Chancellor Cowper behaved with unexampled firmness and honour. He rejected with scorn, all the overtures which Harley made, in the most humble and supplicating manner, to induce him to continue in office. When he waited on the queen to resign, she strongly opposed his resolution, and returned the seals three times, after he had laid them down. At last, when she could not prevail, she commanded him to take them, adding, I beg it as a favour of you, if I may use that expression. Cowper could not refuse to obey her commands; but after a short pause, taking up the seals, he said that he would not

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About the same time she dismissed the lord Sommers,* and, in his room, made the earl of Rochester lord-president of the council. She sent to the duke of Devonshire for the lord-steward's staff, and gave it to the duke of Buckingham. Mr. Boyle† was removed from the post of Secretary of State, and Mr. Henry St. John had the seals. The earl of Derby was dismissed from being chancellor of the Duchy of Lancaster, and was succeeded by the lord Berkley. Upon all these removes, the Lord-Chancellor came, on the 23d of September, and delivered up the great seal. The queen did not expect this, and was surprized at it; and, not knowing how to dispose of it, she, with unusual earnestness, pressed him to keep it one day longer. The day following, having considered the matter with her favourites Mrs. Masham and Mr. Harley, she received it very readily. At first she committed it to the custody of three lords-commissioners, sir Thomas Trevor, chief-justice of the Common-pleas; Mr. Robert Tracy, judge of the same court; and Mr. Scroop, baron of the Exchequer in Scotland; but it was soon after given to sir Simon Harcourt. The earl of Wharton delivered up his commission of lord-lieutenant of Ireland, which was given to the duke of Ormond.* The earl of Orford, first commissioner of the Admiralty, withdrew from that board; but the other four commissioners, sir John Leake, sir George Byng, Mr. Dodington, and Mr. Methuen, were continued; to whom were added sir William Drake and Mr. Aislaby. Mr. George Granville, a near relation of the earl of Bath, was appointed Secretary at War, in the room of Mr. Robert Walpole,† and Mr. Manley

carry them out of the palace, except on the promise, that the surrender of them would be accepted on the morrow. 'The arguments on my side,' to use the words of lord Cowper himself, 'and professions, and the repeated importunities of her majesty, drew this audience into the length of three quarters of an hour.' On the following day, his resignation was accepted, and soon afterwards the seals were given to sir Simon Harcourt." Coxe's Walpole.

* "Sept. 20. To-day I returned my visits to the duke's daughters; the insolent drabs came up to my very mouth to salute me; then I heard the report confirmed of removals; my lord-president Somers; the duke of Devonshire, lord-steward; and Mr. Boyle, Secretary of State, are all turned out to-day. I never remember such bold steps taken by a Court: I am almost shocked at it, though I did not care if they were all hanged. We are astonished why the parliament is not yet dissolved, and why they keep a matter of that importance to the last. We shall have a strange winter here between the struggles of a cunning provoked discarded party and the triumphs of one in power; of both which I shall be an indifferent spectator, and return very peaceably to Ireland, when I have done my part in the affair I am entrusted with, whether it succeeds or no." Swift's Journal to Stella.

† Youngest son of Charles Lord Clifford. He was appointed Chancellor of the Exchequer to king William in March 1701; and was much esteemed by that prince. He continued in that post till Feb. 12, 1707-8, when he was made one of the principal Secretaries of State, in which station he remained till September 20, 1710. On the accession of George 1, Mr. Boyle was created lord Carleton, and soon after made president of the council. He died unmarried, March 14, 1724-5. To the intervention of Mr. Boyle and the friendship of lord Halifax, Mr. Addison was indebted for his first introduction to lord Godolphin.

* "Sept. 11. Every day we expect changes and the Parliament to be dissolved. Lord Wharton expects every day to be out: he is working like a horse for elections; and, in short, I never saw so great a ferment among all sorts of people." Swift's Journal.

† "Walpole acted on this occasion an honourable and disinterested part. In the wreck of this great administration, Harley, desirous of retaining in power several of the Whigs, with a view to counterbalance the credit of St. John and Harcourt, who already began to give him umbrage, endeavoured to gain Walpole. He made very flattering advances; told him that he was worth half his party, and pressed him to continue in administration; but all his efforts proved ineffectual. Harley finding at last that promises and flattery were employed without avail, had recourse to threats. Hawes, one of his confidential emissaries, who was afterwards receiver of the customs, informed Walpole, that the treasurer had in his possession a note for the contract of forage, indorsed by him; this insinuation was made in such a manner, as to imply, that if Walpole would come over to the new ministry, this note should not be produced against him. But he, no less disdainful of menaces than before he was regardless of promises, rejected all overtures. In a letter written on the 19th of September he observes to his friend general Stanhope; 'I believe, in all probability, this will be the 'last letter I shall write from this office. We 'are in such a way here, as I cannot describe. 'But you can imagine nothing worse than you 'will hear. The parliament is not yet dis-'solved, but this week will certainly determine 'it. Dear Stanhope, God prosper you, and pray 'make haste to us, that you may see what you 'will not believe if it were told you.' A few days after writing this letter, he retired from the office of secretary at war.—Harley, however, was not repulsed by the first refusal of Walpole to support his administration. He had too much success with many of the Whigs not to exert every effort to gain a man whose talents and eloquence he held in the highest estimation. He suffered him to continue in his place of treasurer of the navy, several months after the Whig ministry were entirely routed. He sent several messages, and held several con-

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was made surveyor-general, in the room of Mr. Samuel Travers; and Mr. Arthur Moore was made one of the lords-commissioners of trade and plantations. Mr. Robert Raymond, an eminent lawyer of Gray's-inn, was appointed solicitor-general, in the room of Mr. Eyre, who, on the 5th of May, had kissed the queen's hand, and been knighted, in order to be made one of the judges of the Queen's bench, in the room of sir Henry Gould, deceased; and sir Edward Northey was made attorney-general. Dr. Robinson, dean of Windsor, who of late had grown into great confidence with Mr. Harley, was nominated to succeed Dr. Hall, deceased, in the bishopric of Bristol; and Dr. Bysse to succeed Dr. Bull, deceased, in the see of St. David's. The duke of Hamilton was appointed lord-lieutenant of the county palatine of Lancaster; the earl of Portmore was made commander in chief of her majesty's forces in Portugal, in the room of the earl of Galway; the lord Windsor advanced to the post of lieut. general; and general Webb made governor of the Isle of Wight.

"So sudden and so entire a change in the ministry* is scarce to be found in our history, especially where men of great abilities had served with such zeal and success, that the administration of all affairs, both at home and abroad, in their hands, was not only without exception, but had raised the admiration of all Europe. All this rose purely from the great credit of the new favourites, and the queen's personal distaste to the old ones. The queen was much delighted with all these changes, and seemed to think she was freed from the chains, which the old ministry held her in. She spoke of it to several persons as a captivity, which she had been long under. The duke of Somerset had very much alienated the queen's mind from the old ministry; but he was so displeased with the dissolution of the parliament, and the new model of the ministry, that, though he continued some time master of the horse, he refused to sit any more in council, and complained openly of the artifices, which had been used to make him instrumental to other people's designs.

"On the 28th of September, the queen went to Hampton-court, having the same day ordered the seals to be put to a commission for renewing the lieutenancy of the city of London; in which several Whigs, who were in the former, were left out, and Tories put in their places. This new commission was chiefly designed, both to prevent sir Gilbert Heathcote, an alderman near the chair, and governor of the bank (who had given offence to the court, by his application to the queen in favour of the late ministry) from being chosen lord-mayor, and to strengthen the interest of the High-church party in the election of parliament-men for the capital city, which generally has a great influence upon other elections. But that commission was opened too late to have the intended effect; for, the election for a lord-mayor coming on the 29th of September, according to custom, the majority appeared for sir Gilbert Heathcote and sir Robert Beachcroft; and though a poll was demanded, and great interest made by the Tory party for sir Richard Hoare, yet the two first had the majority of voices; and, being, on the 5th of October, returned by the Common-hall, the court of aldermen, on the 11th, chose sir Gilbert Heathcote lord-mayor for the year ensuing, but in this point he had but common jus-

versations with him, to persuade him to moderate his opposition against the new measures; but his constant answer was 'Make a safe and 'honourable peace, and preserve the Protes-'tant Succession, and you will have no opposition." Coxe's Walpole.

* "There never was any event in the annals of this country attended with more disgraceful consequences to England, or followed by more fatal effects to Europe in general, than the dismission of those great men, who formed that glorious and successful administration in the reign of queen Anne, called, by way of distinction, the Whig administration.—Our regret at their fall is still further heightened from the consideration, that it was occasioned by the overbearing temper of a mistress of the robes, [duchess of Marlborough], and principally effected by the petty intrigues of a bed-chamber woman, [Abigail Hill, Mrs. and afterwards lady Masham], against her benefactress. The surprising influence which the duchess of Marlborough had acquired over the weak and irresolute mind of the good queen Anne, is well described in that extraordinary Apology of her Conduct, which the duchess gave to the public. We there find a princess of the most placid temper, fascinated by the captivating manners of an artful, but agreeable woman; a queen, imbued with high notions of regal dignity, and a most exact observer of forms, throwing off all etiquette, and corresponding with her favourite, under the fictitious names of Morley and Freeman. We find the duchess, after having engaged the affections of her mistress by the most assiduous attention, relapsing into gross neglect, and gradually sinking in favour. We find her at the same time either not perceiving, or striving to conceal from others, and even from herself, the decline of her ascendancy, and increasing the disgust of the queen by her rude and intemperate behaviour. Unfortunately, the duchess of Marlborough had so much credit and power with the duke, her husband, and Godolphin, that to remove her it became necessary to remove the ministry, over whom she possessed so strong an influence. The artful and cautious manner by which Mrs. Masham supplanted the duchess of Marlborough, is also related in this Apology, which may be called a manual of court intrigues; and her cabals with Harley, are detailed in the writings of Swift, who derived his information on that subject, from the most unquestionable authorities." Coxe's Walpole.

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tice done him, there having been an agreement, made some years before between the aldermen of London, to chuse him, who was next the chair, to prevent animosities and disputes. On the 10th of October the queen's commission for a new lieutenancy was opened at Guild-hall, when sir Samuel Garrard, then lord-mayor, sir Francis Child, sir John Parsons, sir Robert Bedingfield, sir William Withers, and sir Richard Hoare, were chosen colonels of the six city-regiments. About a fortnight after the new lieutenancy of London presented an Address to the queen, who took that opportunity to desire them, "as they had great fortunes of their own, that they would use their endeavours to support the public credit." It was expected, that this recommendation would have had a good effect, and engaged the Tory party in the city, either to advance money to the government, or to use their utmost endeavours to support the public funds. But neither of these happened; and so the Bank, East India, annuities, and other stocks continued sinking, which gave the ministry no small uneasiness; the rather, because some bills of exchange, drawn from Genoa for remittances into Spain, happened at this juncture to be protested. Mr. Harley, the new chancellor of the exchequer, sent his agents into the city, who found means to engage several rich merchants and bankers, particularly Mr. John Lambert, a French refugee, to supply the urgent necessities of the government.*

"By this time the election for parliament-men were over in several places; and by the first returns it appeared, that, amongst the new members, the number of the Whigs was near equal to that of the Tories; which, as was then given out, answered the expectations and desires of the new managers.† For having gained their chief aim, which was to remove the late Lord Treasurer and his friends, it was by many believed, that they designed to carry things even between both parties, and therefore wished only for such a majority of the High Church in the House of Commons, as might countenance the new scheme; and whom, on the other hand, they might easily check by means of their own creatures, if an unseasonable zeal for the church should prompt them to make any motions against the Toleration. If this was the real intention of the new ministry, or of Mr. Harley in particular, the chief author of the late changes; it soon appeared, that they were either mistaken in their computation, or disappointed in their wishes; and the new members of the High-Church party far out-numbered those of the contrary side; which, besides the influence of the court, was owing to several other causes. For, in the first place, many of the Whig gentlemen, who either could not be induced to believe, that the last parliament would be dissolved, till the blow was given; or who, in case of a dissolution, thought themselves secure of being re-chosen, had neglected making an interest; whilst those, who designed to oppose them, had early taken all the necessary measures to carry their point. Secondly, the ferment, raised by Dr. Sacheverell's trial, was now rather increased than abated, being industriously fomented and propagated throughout the kingdom, in order to influence elections; which it did effectually, and in a more visible manner, in the cities and boroughs, through which that divine had made his triumphant progress in the summer. Thirdly, all the inferior clergy, a few excepted, thinking themselves attacked through the sides of Dr. Sacheverell, were more than ordinarily zealous and diligent in promoting the interest of such, as they thought best affected to the church; not only without any regard to the necessary qualifications of personal merit or estate in the candidates, but in several instances, in breach of the common duties of gratitude, strenuously opposing their very patrons and benefactors. Besides a course, for some months, of very inflaming sermons, they went about from house to house, pressing their people to shew, on this great occasion, their zeal for the church, and now or never to save it. They also told them, in what ill hands the queen had been kept, as in captivity; and that it was a charity, as well as their duty, to free her from the power, which the late ministry exercised over her. In the last place, there was a vast concourse of rude multitudes brought together, who behaved themselves in so boisterous a manner, that it was not safe, and in many places not possible, for those, who had a right to vote, to come and

* "Oct. 5. This morning Delaval came to see me, and we went together to to Kneller's, who was not in town. In the way we met the electors for parliament-men: and the rabble came about our coach, crying 'a Colt,' 'a 'Stanhope,' &c. we were afraid of a dead cat, or our glasses broken, and so were always of their side." Swift's Journal.

"Oct. 6. We now hear daily of elections; and, in a list I saw yesterday of about twenty, there are seven or eight more Tories than in the last parliament; so that I believe they need not fear a majority, with the help of those who will vote as the court pleases. But I have been told, that Mr. Harley himself would not let the Tories be too numerous, for fear they should be insolent, and kick against him; and for that reason they have kept several Whigs in employments, who expected to be turned out every day: as sir John Holland the comptroller, and many others." Ibid.

† "Oct. 29. I am afraid the new ministry is at a terrible loss about money: the Whigs talk so, it would give one the spleen: and I am afraid of meeting Mr. Harley out of humour. They think he will never carry through this undertaking. God knows what will come of it. I should be terribly vexed to see things come round again: it will ruin the church and clergy for ever; but I hope for better." Swift's Journal.

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give their votes for a Whig. Open violence was used in several places. This was so general through the whole kingdom, all at the same time, that it was visible, that the thing had been concerted for some time, and the proper methods and tools had been prepared for it. The influence of the mob was, in a particular manner, remarkable in the election for the city of Westminster; where Mr. Medlicot and Mr. Cross being set up by the High-Church party, some of those, who offered to give their voices for their competitors, general Stanhope and sir Henry Dutton Colt, were knocked down and wounded, which obliged many of their party to return home without polling; so the two first candidates had a vast majority. The Whigs expected, that the election of the city of London would balance that of Westminster; and indeed, the first day of the poll, their candidates had a considerable advantage; but such industry was used by the then lord-mayor and the aldermen of the High-Church party, in bringing many citizens upon the livery, and engaging their votes, that upon closing the books, sir William Withers, sir Richard Hoare, sir George Newland, and Mr. John Cass, all four of that party, having the majority of votes, were declared duly elected. After the poll was ended, there were extraordinary rejoicing throughout the city, by illuminations, bon-fires, ringing of bells, &c. and the tumultuous mob were so exalted and enraged against those, who seemed not to partake in the public joy, that they broke all the windows they saw unlighted, without distinction; so that many houses of the church-party were damaged, as well as those of the Whigs, and in particular that of sir Richard Hoare, one of the four, for whose sakes these rejoicings were made. Some days before, the mob was guilty of a still greater instance of outrage; for, as sir Gilbert Heathcote, one of the Whig candidates, and lord-mayor elect, was going out of Guild-hall, they not only insulted him with reproachful language, but one of them spit in his face.

"Though the Tories had boasted, that none of the managers against Dr. Sacheverell would be rechosen members of parliament; yet, notwithstanding the utmost endeavours, that were used to prevent it, sir Joseph Jekyll, sir Peter King, Mr. Lechmere, and Mr. Walpole, were returned; as was also general Stanhope for Cockermouth, though he lost his election at Westminster: however, there were few Whigs returned, against whom petitions were not offered; there were in all about a hundred, and, by the first steps after the meeting of the parliament, the majority made it appear, that they intended to clear the House of all who were suspected to be of that party. As for the elections in Scotland, the 16 peers returned were the dukes of Hamilton and Athol; the marquis of Annandale; the earls of Mareschal, Eglington, Mar, Loudoun, Hume, Kinoule, Northeske, Orkney, Roseberry, Ilay; the lord viscount Kelsythe; and the lord Balmerino and Blantyre. And the elections of the Commons were much upon an equal foot between Whigs and Tories.

FIRST SESSION OF THE THIRD PARLIAMENT OF GREAT BRITAIN.

List of the House of Commons.] Nov. 25. 1710. This day the New Parliament met at Westminster. The following is a List of the Members of the House of Commons:

A LIST of the HOUSE OF COMMONS in the Third Parliament of Great Britain, which met November 25, 1710.

Abington,
Sir Simon Harcourt.
Agmondesham,
John Drake,
Francis Duncomb.
Albans, (St.)
John Gape,
William Grimston.
Aldborough, (Suffolk)
Sir Henry Johnson,
Lt. William Johnson.
Aldborough, (Yorkshire)
Robert Moncton,
William Jessop.
Allerton-North,
Robert Raikes,
Roger Gale.
Andover,
John Smith,
William Guidott.
Anglesea,
Lord Bulkeley.
Apleby,
Edward Duncomb,
Thomas Lutwyche.
Arundel,
Earl of Thomond,
Lord Lumley.
Ashburton,
Richard Lloyd,
Roger Tuckfield.
Aylesbury,
Simon Harcourt,
John Essington.
Banbury,
Charles North.
Barnstaple,
Sir Nicholas Hooper, kt.
Richard Ackland.
Bath,
John Codrington,
Samuel Trotman.
Beaumaris,
Henry Bertie.
Bedfordshire,
Lord Ed. Russel,
Sir William Gostwick.
Bedford Town,
William Farrer,
John Cater.
Bedwin,
Lord Bruce,
Thomas Millington.
Berkshire,
Sir John Stonehouse,
Henry St. John.
Berwick Town,
Wm. Kerr,
Jonathan Hutchinson.
Beverley,
Sir Charles Hotham,
Sir Michael Wharton.
Bewdley,
Salway Winnington.
Bishop's Castle,
Richard Harnage,
Robert Raymond.
Bletchingly,
George Evelyn,
Thomas Onslow.
Bodmin,
Russel Robarts,
Francis Robarts.
Boralston,
Sir Peter King,
Lawrence Carter.
Boroughbridge,
Sir John Bland,
Robert Frank.
Bossiney,
Henry Campion,
John Manley.
Boston,
Peregrine Bertie,
Richard Wynn.
Bramber,
Wm. Shippen,
Andrew Windsor.
Brecon County,
Sir Edward Williams.
Brecon Town,
Edward Jeffreys.
Bridgewater,
Nathaniel Palmer,
George Dodington.
Bridport,
Thomas Strangeways,
William Coventry.
Bristol,
Edward Colston,
Joseph Earle.
Bridgnorth,
Richard Creswell,
Whitmore Acton.
Buckinghamshire,
Lord Fermanagh,
Sir Edmund Denton.
Buckingham Town,
Sir Richard Temple,
Thomas Chapman.
Calne,
James Johnson,
William Hedges.
Cambridgeshire,
John Bromley,
John Jennings.
Cambridge Town,
John Hynde Cotton,
Samuel Shepherd.
Cambridge University,
Dixey Windsor,
Thomas Paske.
Camelford,
Paul Orchard,

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Sir Boucher Wray.
Canterbury,
John Hardress,
Henry Lee.
Cardiffe,
Sir Edward Stradling.
Cardiganshire,
Sir Humph. Mackworth.
Cardigan Town,
Owen Brigstocke.
Carlisle,
Thomas Stanwix,
Sir James Montagu.
Carmarthenshire,
Sir Thomas Powel.
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
Sir John Wynn.
Carnarvon Town,
William Griffith.
Castle Rising,
William Fielding,
Horatio Walpole.
Cheshire,
Sir George Warburton,
Charles Cholmondeley.
Chester City,
Sir Henry Bunbury,
Peter Shackerly.
Chichester,
Sir Richard Farrington,
Sir John Miller.
Chippenham,
Sir James Long,
Francis Popham.
Chipping-Wicomb,
Sir Thomas Lee,
Charles Godfrey.
Christ's Church,
William Ettricke,
Peter Mews.
Cirencester,
Charles Cox,
Thomas Master.
Clifton,
Nathaniel Herne,
Frederick Herne.
Clithero,
Edward Harvey,
Thomas Lister.
Cockermouth,
Nicholas Lechmere,
James Stanhope,
Colchester,
Sir Isaac Rebow,
William Gore.
Corfeastle,
John Banks,
Richard Fownes.
Cornwall,
John Trevanion,
Sir Richard Vivian.
Coventry,
Thomas Gerey,
Sir Christopher Hales.
Cricklade,
Edmund Dunch,
Samuel Robinson.
Cumberland,
James Lowther,
Gilfred Lawson.
Denbighshire,
S:r R. Middleton.
Denbigh Town,
John Roberts.
Derbyshire,
John Curzon,
Godfrey Clark.
Derby Town,
Edward Munday,
Nathaniel Curzon.
Devizes,
Sir Francis Child,
Thomas Webb.
Devonshire,
John Rolle,
Sir William Courtney.
Dorchester,
Sir Nathaniel Napier,
Benjamin Gifford.
Dorsetshire,
Thomas Strangeways,
Richard Bingham.
Dover,
Matthew Aylmer,
Philip Papillon.
Downton,
John Eyre,
Thomas Duncomb.
Droitwich,
Edward Jeffreys,
Richard Foley.
Dunwich,
Sir George Downing,
Richard Richardson.
Durham County,
Sir Robert Eden,
William Lambden.
Durham City,
Thomas Conyers,
George Baker.
Eastlow,
Sir Henry Seymour,
Thomas Smith.
Edmund's Bury,
Awbery Porter,
Samuel Batteley.
Essex,
Sir Richard Child,
Thomas Middleton.
Evesham,
Sir Edward Goodere,
John Rudge.
Exeter,
Sir Copleston Bampfield,
John Snell.
Eye,
Sir Joseph Jekyll,
Thomas Maynard.
Flintshire,
Sir R. Mostyn.
Flint Town,
Sir John Conway.
Fowey,
Henry Vincent,
Bernard Granville.
Gatton,
William Newland,
Paul Dominique.
Germans (St.)
Edward Elliot.
John Knight.
Glamorganshire,
Robert Jones.
Gloucestershire,
John Berkeley,
Matthew Moreton.
Gloucester City,
Thomas Webb,
John Blanch.
Grampound,
Thomas Cook,
James Craggs.
Grantham,
Sir William Ellis,
Sir John Thorold.
Grimsby,
Arthur Moore,
Robert Vyner.
Grimstead,
John Conyers,
Leonard Gale.
Guildford,
Denzil Onslow,
Morgan Randyl.
Harwich,
Kendrick Edisbury,
Thomas Frankland.
Haslemere,
Sir John Clarke,
Sir Theoph. Oglethorp.
Hastings,
Sir Wm. Ashburnham,
Sir Joseph Martin.
Haverford-west,
John Laugharn.
Helston,
Sidney Godolphin,
Robert Child.
Herefordshire,
Lord Scudamore,
Sir Thomas Morgan.
Hereford City,
James Bridges,
Thomas Foley.
Hertford County,
Ralph Freeman,
Thomas Halsey.
Hertford Town,
Charles Cæsar,
Richard Goulston.
Heydon,
William Pulteney,
Hugh Cholmondely.
Heytesbury,
Edward Ash,
William Ash.
Higham Ferrers,
Thomas Wentworth.
Hindon,
Edmund Lambert,
Henry Lee.
Honiton,
Sir William Drake,
James Shepherd.
Horsham,
John Wicker,
John Middleton.
Huntingdonshire,
John Pocklington,
Sir John Cotton.
Huntingdon Town,
Edward Wortley,
Francis Page.
Hythe,
Lord Shannon,
John Boteler.
Ilcester,
Edward Philips,
Sir James Bateman.
Ipswich,
Sir William Barker,
William Churchill.
Ives, (St.)
John Hopkins,
John Praed.
Kellington,
Samuel Rolle,
Henry Manaton.
Kent,
Percival Hart,
Sir William Hardress.
Kingston,
Sir William St. Quintin,
William Maisters.
Knaesborough,
Robert Byerley,
Christopher Stockdale.
Lancashire,
James Stanley,
Richard Shuttleworth.
Lancaster Town,
Robert Heysham,
William Heysham.
Lanceston,
George Clark,
Francis Scobell.
Leicestershire,
Jeffrey Palmer,
Sir Thomas Cave.
Leicester Town,
Sir George Beaumont,
James Winstanley.
Leominster,
Edward Harley,
Edward Bangham.
Leskard,
William Bridges,
Philip Rashleigh.
Lestwithiel,
John Hill,
Hugh Fortescue.
Lewes,
Thomas Pelham,
John Trevor.
Lincolnshire,
Lord Willoughby,
Lewis Dymock.
Lincoln City,
Sir Thomas Meers,
Thomas Lister.
Litchfield,
Richard Dyot,
John Coates.
Liverpool,
Sir Thomas Johnson,
John Cleveland.
London,
Sir William Withers,
Sir Rice Hoare,
Sir George Newland,
Sir John Cass.
Ludlow,
Sir Thomas Powis,
Acton Baldwyn.
Luggershall,
John Webb,
Thomas Peirce.
Lyme,
Henry Henley,
John Burridge.
Lymington,
Lord Pawlett,
Paul Burrard.
Lynn-Regis,

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Sir Charles Turner,
John Turner.
Maidstone,
Sir Thomas Colepeper,
Sir Robert Masham.
Malden,
John Conyns,
Thomas Bramston.
Malmsbury,
Joseph Addison,*
Sir John Rushout.
Malton,
William Palmes,
William Strickland.
Marlborough,
Robert Bruce,
Richard Jones.
Marlow,
Sir James Etheridge,
George Bruere.
Mawes, (St.)
Sir Richard Onslow,
John Anstis.
Melcomb-Regis,
Sir Thomas Hardy,
William Harvey.
Merioneth,
Richard Vaughan.
Midhurst,
Laurence Alcock,
John Pratt.
Middlesex,
James Bertie,
Hugh Smithson.
Milbourn,
Sir Thomas Treval,
James Medlycott.
Minehead,
Sir John Trevelyan,
Sir Jacob Banks.
Michael, (St).
Abraham Blackmore,
Richard Bellasis.
Monmouthshire,
John Morgan,
Thomas Lewis.
Monmouth Town,
Clayton Milbourn.
Morpeth,
Lord Castlecomer,
Sir Richard Sandford.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
John Pugh.
Newark,
Richard Newdigate,
Richard Sutton.
Newcastle, (Staffordsh.)
Rowland Cotton,
William Burslen.
Newcastle (Northum.)
Sir William Blacket,
William Wrightson.
Newport, (Cornwall)
Sir Nicholas Morrice,
George Courtenay.
Newport, (Hants.)
William Seymour,
William Stevens.
Newton, (Lancash.)
Thomas Leigh,
John Ward.
Newton, (Hants.)
James Worsley,
Henry Worsley.
Norfolk,
Sir John Woodhouse,
Sir Jacob Astley.
Northamptonshire,
Sir Justinian Isham,
Thomas Cartwright.
Northampton Town,
William Wykes,
George Montagu.
Northumberland,
Algernoon Seymour,
Thomas Forster.
Norwich,
Robert Bene,
Richard Berney.
Nottinghamshire,
Lord Howe,
William Levinz.
Nottingham Town,
John Plumtree,
Robert Sachevcrell.
Okehampton,
John Dibble,
Christopher Harris.
Orford,
Sir Edward Turner,
Clement Corrance.
Oxfordshire,
Sir Robert Jenkinson,
Francis Clerke.
Oxford City,
Sir John Walter,
Thomas Rowney.
Oxford University,
Sir William Whitlock,
Will. Bromley.
Pembrokeshire,
John Barlow.
Pembroke Town,
Lewis Wogan.
Penryn,
Samuel Trefusis,
Alexander Pendarvis.
Peterborough,
John Fitzwilliams,
Charles Parker.
Petersfield,
Leonard Bilson,
Norton Powlett.
Plymouth,
Charles Trelawney,
Sir George Byng.
Plympton,
George Treby,
Richard Edgcomb.
Pool,
William Lewen,
Sir William Phippard.
Pontefract,
Robert Franks,
Sir John Bland.
Portsmouth,
Sir James Wishart,
Sir William Gifford.
Preston,
Sir Henry Houghton,
Henry Fleetwood.
Queenborough,
Thomas King,
James Herbert.
Radnor County,
Thomas Harley.
Radnor Town,
Edward Harley.
Reading,
John Dalby,
Owen Buckingham.
Retford,
Brian Cook,
Francis Lewis.
Richmond,
Henry Mordaunt,
John York.
Rippon,
John Aislaby,
John Sharp.
Rochester,
Sir John Leak,
William Cage.
Romney,
Sir Robert Furnese,
Edward Watson.
Rutlandshire,
Lord Finch,
Richard Halford.
Rye,
Philip Gibbon,
Sir John Norris.
Ryegate,
John Ward,
Sir John Parsons.
Salop County,
Robert Lloyd,
John Kynaston.
Salop Town,
Edward Cresset,
Richard Mytton.
Saltash,
Sir William Carew,
Jon. Elford.
Sandwich,
John Mitchel,
Josiah Burchet.
Sarum, New
Charles Fox,
Robert Pitt.
Sarum, Old
Thomas Pitt,
William Harvey.
Scarborough,
William Thompson,
John Hungerford.
Seaford,
William Lowndes,
Thomas Chowne.
Shaftsbury,
Edward Nicholas,
Henry Whitaker.
Shoreham,
Nathaniel Gould,
Gregory Page.
Somersetshire,
Sir Thomas Wroth,
Sir William Wyndham.
Southampton County,
George Pitt,
Sir Simeon Stewart.
Southampton Town,
Richard Flemming,
Roger Harris.
Southwark,
Charles Cox,
John Cholmondeley.
Staffordshire,
William Ward,
Charles Pagett.
Stafford Town,
Walter Chetwynd,
Thomas Foley.
Stamford,
Charles Cecil,
Charles Bertie.
Steyning,
Henry Goring,
William Wallis.
Stockbridge,
Lord Barrimore,
George Dashwood.
Sudbury,
John Mead,
Robert Echlin.
Suffolk,
Sir Thomas Hanmer,
Sir Robert Davers,
Surrey,
Sir Francis Vincent,
Heneage Finch.
Sussex,
Charles Eversfield,
Sir George Parker.
Tamworth,
Joseph Girdler,
Samuel Bracebridge.
Tavistock,
Sir John Cope,
James Bulteel.
Taunton,
Sir Francis Warre,
Henry Portman.
Tewksbury,
William Bromley,
William Dowdeswell.
Thetford,
Sir Edmund Bacon,
Dudley North.
Thirsk,
Ralph Bell,
Thomas Worsley.
Tiverton,
Sir Edward Northey,
John Worth.
Totness,
Francis Gwynn,
Thomas Coulston.
Tregony,
George Robinson,
Edward Southwell.
Truro,
Hugh Boscawen,
Henry Vincent.

* "Oct. 12. We are yet in a very dull state; only enquiring every day after new elections, where the Tories carry it among the new members six to one. Mr. Addison's election," [for Malmesbury vice Farrington deceased] "has passed easy and undisputed; and I believe if he had a mind to be chosen king, he would hardly be refused." Swift's Journal.

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Wallingford,
Simon Harcourt,
Thomas Reuda.
Warwickshire,
Sir John Mordaunt,
Sir William Bought
Warwick Town,
Francis Grevill,
Doddington Grevill.
Wareham,
Thomas Erle,
Sir Edward Erne.
Wells,
Maurice Berkeley,
Edward Coulston.
Wendover,
Sir Roger Hill,
Henry Grey.
Wenlock,
George Weld,
Sir William Forrester.
Weobly,
John Birch,
Henry Cornwall.
Westbury,
Henry Bertie,
Francis Annesley.
Westlow,
Sir Charles Hedges,
Arthur Maynwaring.
Westminster,
Thomas Medlicot,
Thomas Cross.
Westmoreland,
James Graham,
Daniel Wilson.
Weymouth,
Maurice Ashley,
Reginald Marriot.
Whitchurch,
Frederick Tilney,
Thomas Vernon.
Winchelsea,
Sir Francis Dashwood.
Robert Bristow.
Winchester,
George Bridges,
Thomas Lewis.
Windsor,
Richard Topham,
Charles Aldworth.
Wilton,
Charles Mompesson,
Peter Bathurst.
Wiltshire,
Sir Richard How,
Robert Hyde.
Woodstock,
Sir Thomas Wheat,
William Cadogan.
Wooton Basset,
Richard Goodere,
Edmund Pleydell.
Wygan,
Sir Roger Bradshaigh,
George Kenion.
Worcestershire,
Sir John Packington,
Samuel Pitts.
Worcester City,
Samuel Swift,
Thomas Wylde.
Yarmouth (Norf.)
Richard Farrier,
George England.
Yarmouth (Hants.)
Henry Holmes,
Sir Gilbert Dolben.
Yorkshire,
Lord Downe,
Sir Arthur Kay.
York City,
Sir William Robinson,
William Maister.

WM. BROMLEY, Speaker.

Mr. Bromley chosen Speaker.] The Commons went up to the House of Peers to attend her majesty, who was pleased by the Lord Keeper, sir Simon Harcourt, to command them to return to their House and chuse a Speaker. And the House being returned, sir Tho. Hanmer proposed, William Bromley*, esq. might be their Speaker; being a gentleman of undoubted loyalty and affection to her majesty's person and government, and to all the just rights and prerogatives of the crown; eminent for his true and unaffected zeal for the Protestant Succession in the house of Hanover, and his firm adherence to the church of England as by law established; and one, who, by a long service in parliament, had acquired great experience in the rules and orders of the House, and had also given the world an equal experience of himself, that nothing could ever draw him from the true interests of his country, and was sincerely and heartily affected to the common cause of the present war.—Then Mr. George Pitt said, that Mr. Bromley was so well known to many gentlemen present, and had in former parliaments given so many testimonies of his zeal and affection for the service of the queen, and

* The sixteen Scottish peers returned to this parliament were as follow, viz. duke of Hamilton, duke of * Atholl, marquis of * Annandale, earl * Marshal, earl * Eglintoun, earl of Marr, earl of Loudoun, earl of * Hume, earl of * Kinnoule, earl of Northesk, earl of Orkney, earl of Roseberrie, earl of Isla, viscount * Kylsythe, lord * Balmerino, lord * Blantyre. The nine marked with *, were not of the last parliament, but were chosen instead of the nine following, viz. duke of Montross, duke of Roxborough, marquis of Lothian, earl of Crawford, earl of Rothes, earl of Wymess, earl of Leven, earl of Seaford, earl of Glasgow.

† "The right hon. William Bromley, of Baggington in Warwickshire, was, I believe, the son of sir William Bromley, of that place, knight of the Bath. A man of great estate, and highly respected; who was chosen representative in parliament for the university of Oxford, in 1701, and in every succeeding election, till 1727 inclusive. In 1705 his friends proposed him for Speaker of the House of Commons, when party ran extremely high, and he was supported by the Tories; but Mr. Smith carried it by a majority of 44. Though he failed of success, it did not injure his interest either in or out of the House; and, on the change of the ministry, in 1710, when the Whigs were expelled from administration, he was chosen Speaker without opposition. This great leader of the Tory and Jacobite interest, died February 13, 1732, at Baggington. In the reign of queen Anne he had been highly caressed, respected, and honoured: her majesty having called him to the privy council and appointed him secretary of state. In that of George 1, he retained his principles. Mr. Bromley was a most respectable character in private life, and of a grave and solemn aspect. He was well known, when a young man, by the publication of his Travels; in which his Jacobitical sentiments were strongly marked. He had the unhappiness of losing his eldest son, and heir apparent, Cloberry Bromley, esq. who married Dorothy, daughter of William Bromley, esq. of Hull-castle in the county of Worcester, a family from which descend the barons Mountfort, of Horseheath in Cambridgeshire. This lady re-married John Jenyns, of Hayes in Middlesex, esq." Noble's Continuation of Granger.

"Nov. 25. I was to-day to see the parliament meet; but only saw a great crowd; and Ford and I went to see the tombs at Westminster, and sauntered so long I was forced to go to an eating-house for my dinner. Bromley is chosen Speaker *nemine contradicente*: Do you understand those two words? And Pompey, colonel Hill's black, designs to stand Speaker for the footmen. I am engaged to use my interest for him, and have spoken to Patrick to get him some votes. We are now all impatient for the queen's speech, what she will say about removing the ministry, &c." Swift's Journal.

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country, that it would be vanity in him to pretend to say any thing of his merits; and therefore he should only humbly beg leave to second the motion. Whereupon Mr. Bromley stood up in his place, and acknowledged the great honour, that was done him, to be named for such a station; that he had received many instances of the friendship of those gentlemen, that had proposed him, and to that imputed their entertaining a better opinion of him, than he deserved; but that he was conscious of his own inabilities to execute the same, and so sensible, there were many among them fitter for the chair, that he hoped, they would consult the interest of the public, and their own honour, and chuse a more worthy person. But the House calling upon him to the chair, he was conducted to it by sir Thomas Hanmer and Mr. Pitt; and being upon the lower step, repeated his request, that the House would please to excuse him, and chuse a fitter person to be their Speaker: but the House crying, No, no, he said, he hoped, they would then give him leave to intercede with her majesty to excuse him, and command them to make a better choice. And thereupon he sat down in the chair.

The Speaker's Speech on being presented to the Queen.] Nov. 27. Her majesty, being seated on the throne, commanded the gentleman usher of the black rod to let the House of Commons know, it was her pleasure, that they attend her presently, in the House of Peers. Who being come; they presented William Bromley, esq. whom they had chosen to be their Speaker, for her majesty's royal approbation.

Then Mr. *Bromley* spake as follows: "May it please your most excellent majesty, The knights, citizens, and burgesses of Great Britain, in Parliament assembled, in obedience to your majesty's commands to them to choose a Speaker, have unanimously elected me to be their Speaker. They have many among them much fitter for this great trust: And therefore, that the public service may not suffer through my want of abilities to discharge it, I am an humble suitor to your majesty, that you will be pleased to excuse my undertaking it, and command the Commons to make a better choice."

Then the *Lord Keeper* (sir Simon Harcourt*) said, "Mr. Bromley, her majesty commands me to tell you, she well approves the choice her Commons have made of you, to be their Speaker. And that she does as little doubt of your ability, as she can of your integrity. Her majesty therefore does not think fit to admit of

* "Harcourt was of a family of Norman extraction, the head of which was duc de Harcourt in France. He was son of the valiant sir Simon Harcourt, the first who died in the cause of Charles 1, in Ireland. After studying in Pembroke college, Oxford, he went to the Inner Temple. From 1690 to queen Anne's accession he was member of parliament for Abingdon. Her majesty knighted him in June 1702, and appointed him her solicitor-general; and in April 23, 1707, attorney-general; but for some unknown reason he resigned this office February 12, following, and, singular as it may be, by a voluntary surrender enrolled in court. This act is unprecedented, nor has it been imitated. At the Trial of Dr. Sacheverell, in 1710, he was the leading counsellor in his defence; Dod and Phipps assisted him. 'They freely 'acknowledged the lawfulness of resistance in 'extreme cases, and plainly justified the Revo- 'lution, and our deliverance by king William; 'but they said it was not fit in a Sermon to 'name such an exception; that the duties of 'morality ought to be delivered in their full 'extent, without supposing an extraordinary 'case; and therefore Sacheverell had followed 'precedents, set by our great divines, ever 'since the Reformation, and ever since the 'Revolution.' The queen, desirous of employing sir Simon, recalled him again to the post which he had resigned, made him lord keeper, October 18; and on September 3, 1711, created him baron of Stanton Harcourt, in Oxfordshire; and April 7, 1712, declared him Chancellor. Lord Harcourt being as eminent a person as ever adorned the high station he filled, George 1 prudently made him one of the lords justices until his arrival in England, though he was known to be firmly united to Bolingbroke; however, he supported his majesty and government, and was rewarded for his fidelity by the dignity of a viscount, and appointed a lord of regency, and a privy counsellor. He preserved his reputation unsullied to his death, which happened July 29, 1727, in the 67th year of his age. By the first of his three wives he had Simon, his heir apparent, who dying before his father, Simon his son succeeded to the title, who is ancestor to the earl of Harcourt. Lord Harcourt was a member of the Old Saturday Club. Lord Rivers, Mr. Secretary St. John, Mr. Harley, afterwards lord Oxford, and Swift, met, when Harley had recovered from the wound given him by Guiscard. Swift wrote in 1712; 'I take the agree- 'ment of the present ministry to consist of the 'agreement of three great men, Lord Keeper, 'Lord Treasurer, and Mr. Secretary St. John, 'and so I have told them, betwixt jest and 'earnest, and two of them separately with 'more seriousness; and I think they entirely 'love each other: their differences are not of 'a weight to break their union;' but enraged at lord Harcourt's after joining the Whigs, as he termed them, he afterwards called him a trimmer." Noble's Continuation of Granger.

"Was any man more eminent in his profession than the present lord keeper," [sir Simon Harcourt, afterward lord Harcourt, was made lord keeper upon the resignation of the lord chancellor Cowper], "or more distinguished by his eloquence and great abilities in the House of Commons? and will not his enemies allow him to be fully equal to the great station he now adorns? But then it must be granted, that

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your excuse; but allows of, and confirms, you to be Speaker."

Then Mr. *Speaker* said, "Most gracious Sovereign, since your majesty has not been pleased to allow my excuse, but to approve the choice your Commons have made; it is my duty to submit, and render your majesty my most humble thanks for this great and undeserved favour.—I am very sensible, the only qualities I can pretend to, towards the discharge thereof, are a sincere and steady affection for our happy establishment in Church and State, with an unfeigned zeal and devotion for your majesty's person and government. But since your majesty commands me to this service, I shall humbly hope your majesty will pardon all my involuntary failings, and accept my faithful endeavours. I am persuaded, your majesty will find that you are not disappointed, by confiding in the assurances your good subjects had given your majesty, of their duty and affection; that they have chose such persons to represent them in parliament as will effectually support your majesty against all your enemies; that will soon defeat all artifices to destroy or distress the public credit, and enable your majesty to bring that just and necessary war, in which you are engaged, to a safe, honourable, and speedy conclusion. I do, in their names, humbly present to your majesty their accustomed petitions, for their ancient rights and privileges; particularly, That, for their better attendance on this service, they and their necessary servants may be free, in their persons and estates, from arrests and molestations. That they may have liberty and freedom of speech in their debates. That as often as there shall be occasion, your majesty will vouchsafe them access to your royal person; and, That their proceedings may at all times receive a favourable interpretation, and be free from misconstructions."

Then the *Lord Keeper*, by her majesty's command, further said, "Mr. Speaker; Her majesty is so fully satisfied of your dutiful affection to her service, that she is pleased to say, she will, on all occasions, make the most favourable construction of all your words and actions, in the execution of your duty. And that, as to the suit you have made in the name of the House of Commons, she is so very well assured of their temper and wisdom, as well as of their loyalty and zeal for the present establishment in church and state, that she readily grants and allows all their privileges, as fully as they have been at any time granted or allowed by any of her royal predecessors."

The Queen's Speech on Opening the Session.] This done, her majesty opened the Session with the following Speech to both Houses:

"My Lords, and Gentlemen; I have, by calling this parliament, made appear the confidence I place in the duty and affection of my subjects: And I meet you here with the greatest satisfaction; having no reason to doubt but that I shall find such returns as will add new life to our friends, and entirely disappoint the hopes of our enemies.—To this end, I shall recommend to you what is absolutely necessary for our common safety.—The carrying on the war in all its parts, but particularly in Spain, with the utmost vigour, is the likeliest means, with God's blessing, to procure a safe and honourable peace for us and all our allies, whose support and interest I have truly at heart.—For this purpose, I must ask from you, Gentlemen of the House of Commons, the necessary Supplies for the next year's service: And let me put you in mind, that nothing will add so much to their efficacy as unanimity and dispatch.—I cannot without great concern mention to you, that the Navy and other Offices are burdened with heavy Debts, which so far affect the public service, that I most earnestly desire you to find some way to answer those demands, and to prevent the like for the time to come; the justice of parliament, in satisfying former engagements, being the certain way for preserving and establishing national credit.—I am sensibly touched with what my people suffer by this long and expensive war; to which when it shall please God to put an end, the flourishing condition of my subjects shall be as much my care, as their safety is at present.

"My Lords, and Gentlemen; The eyes of both friends and enemies are upon you. The way to give spirit to the one, and to defeat the restless malice of the other, is to proceed in such manner as becomes a British parliament.—I shall, in the plainest words, tell you my intentions; and I do this with the greater satisfaction, because I depend upon their being agreeable to you.—I am resolved to support and encourage the Church of England, as by law established: To preserve the British constitution, according to the Union: And to maintain the Indulgence by law allowed to scrupulous consciences. And, that all these may be transmitted to posterity, I shall employ none but such as are heartily for the Protestant Succession in the House of Hanover; the interest of which family no person can be more truely concerned for than myself.—These are my resolutions; and your concurrence with me in a steady pursuit of them, will best manifest your zeal for our religion, for the interest of our country, for your own safety, and for my honour."

The Lords' Address thereon.] Nov. 28. The Lords agreed upon the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, present our humble and hearty thanks, for your majesty's most gra-

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he is wholly ignorant in the speculative, as well as practical part of polygamy; he knows not how to metamorphose a sober man into a lunatic; he is no freethinker in religion, nor has courage to be patron of an atheistical book, while he is guardian of the queen's conscience. Although, after all, to speak my private opinion, I cannot think these such mighty objections to his character as some would pretend." Swift's Examiner, No. 27.

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cions and excellent Speech on opening this parliament; and particularly for the great confidence your majesty is pleased to place in the duty and affection of your subjects.—We conceive it to be of the highest importance to carry on the war with vigour in all its parts, and particularly in Spain, in order to procure a safe and honourable peace; and, your majesty may be assured, we shall concur in all reasonable methods to that end. And, we humbly hope, your majesty's great example will engage all your allies to join with your majesty in doing their utmost to the same purpose.—We have the happiness to agree entirely with your majesty, in the several resolutions you have declared so plainly and affectionately to your parliament; and we think ourselves obliged to repeat our thanks, for your majesty's great care to transmit the blessings of your reign to posterity, by securing the Protestant Succession in the House of Hanover.—We cannot also but have a particular satisfaction in the assurances your majesty has given, to maintain and encourage the church of England as by law established; which is the firmest support of the monarchy, and the strongest defence against popery.—We have no more to add,* but that we shall carefully endeavour, in all our consultations, to proceed with that unanimity and dispatch as may give the greatest weight to them: and to assure your majesty, that nothing shall be wanting on our part, to satisfy the world, that, with an unshaken zeal, we will constantly defend your majesty's royal person, honour, and dignity, on which our safety and happiness so much depend."

The Queen's Answer.] Her majesty gave this Answer:

"My Lords; I am very glad to find I have your concurrence in the resolutions I declared to you; and give you thanks for this Address, so full of affection to me, and zeal for the public good."

The Commons' Resolution for an Address.] Nov. 29. The Speaker reported the Queen's Speech to the House, whereupon it was unanimously resolved, "That an humble Address be presented to her majesty, to return the humble thanks of the House for her majesty's most gracious Speech from the throne; and assure her majesty, that this House would heartily concur in all the particulars, which her majesty had been pleased to recommend: That this House would effectually and speedily grant the necessary supplies for a vigorous carrying on the war, till such a peace might be obtained, as her majesty should judge to be safe and honourable for her subjects, and all her allies; that this House would preserve and establish the public credit, and in all respects answer the expectation of those they represented, and show how justly her majesty had confided in the duty and affection of her people."—This Resolution being taken,

Sir *Thomas Hanmer* moved, "That in the said Address, they should represent to her majesty, that the most effectual way to give spirit to her friends, and defeat the restless malice of her enemies, would be by discountenancing all persons of such principles, and avoiding all measures of such tendency, as might weaken her majesty's title and government:" this motion occasioned a small debate, in which

Mr. *Lechmere* said, "That they ought likewise humbly to caution her majesty against such measures and principles, as might weaken the settlement of the crown in the illustrious House of Hanover, and advance the hopes of the Pretender." No member offering to second Mr. Lechmere,

Mr. *Harley*, Chancellor of the Exchequer, stood up and said, "That though the Protestant Succession was already sufficiently established and secured by several acts of parliament, so that it seemed needless to add any thing to them; yet, since a motion was made in favour of the illustrious House of Hanover, it would look strange both at home and abroad, the same should drop:" Whereupon it was resolved, That the Clause offered by Mr. Lechmere should be inserted in the Address; which was done accordingly.

The Commons' Address.] Nov. 30. Sir Thomas Hanmer reported the said Address, which was as follows:

"Most gracious Sovereign; We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, do joyfully appear before your majesty, to return our most humble thanks for your most gracious Speech from the throne. We bring the thanks of your whole people, whom your majesty has made happy by that confidence, you have been pleased to place in their duty and affection; and we bring our own most solemn assurances, that we will make all such

* "The queen, in her Speech, took no notice of the successes of this campaign, as she had always done in her former speeches; and instead of promising to maintain the Toleration, she said she would maintain the Indulgence granted by law to scrupulous consciences; this change of phrase into Sacheverell's language was much observed. The Lords made an Address of an odd composition to her, which shewed it was not drawn by those, who had penned their former Addresses: instead of promising, that they would do all that was possible, they only promised to do all that was reasonable, which seemed to import a limitation, as if they had apprehended, that unreasonable things might be asked of them: And the conclusion was in a very cold strain of rhetoric; they ended with saying, 'They had no 'more to add.' The Commons were more hearty in their Address; and in the end of it, they reflected on some late practices against the church and state. There were few Whigs returned, against whom petitions were not offered; there were in all about 100; and by the first steps, the majority made it appear, that they intended to clear the House of all, who were suspected to be Whigs." Burnet.

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returns, as shall convince your majesty, that your confidence has not been misplaced.—We are satisfied, we lie under all possible obligations, both from our duty to your majesty, and the care we owe to our country, effectually and speedily to grant the necessary supplies, for a vigorous prosecution of the war in all its parts, and especially in Spain. This we shall study to do in such a manner, as may best answer the public service, and be most easy to those we represent; and the same we shall continue to do, till such a peace may be obtained, as your majesty, in your royal wisdom, shall judge to be safe and honourable for your subjects, and all your allies.—We have no reason to doubt of your majesty's care in every thing, that concerns the interest and welfare of your people; but we think ourselves obliged, in justice to our fellow-subjects, and in order to make them bear with greater chearfulness the burthens, we shall find necessary to lay upon them, most humbly to beseech your majesty, that you will please to continue your powerful influences with all your Allies, that they may exert themselves in the common cause with Resolutions equal, and aids proportionable, to ours.—The burden of those heavy debts, which presses your people with so sensible a weight, is in some measure alleviated by your princely compassion. We shall endeavour to trace the source of this great evil, and to apply a remedy suitable to it. The honour and justice of parliament shall by us be inviolably maintained, and all such other measures pursued, by which the public credit may be preserved, and established.—Your faithful Commons are truly sensible of your majesty's wisdom and goodness in those resolutions, which you have declared; and do most heartily concur in all, which you have been pleased to recommend to them.—We return your majesty our most humble thanks for the firm assurances you have given, both by your words, and by your actions, of supporting and encouraging the Church of England, as by law established.—As we are true sons of that Church, we cannot but be tenderly concerned for its prosperity, and for its honour; and are by affection, and principle, inclined to secure its doctrine, discipline, and worship.—As we are fellow-Christians, and fellow-subjects, with those Protestant Dissenters, who are so unhappy to entertain scruples against conformity with our Church, we are desirous, and determined, to let them quietly enjoy that indulgence, which the law hath allowed them.—As we are Britons, it is our common interest, and shall be our joint endeavour, to preserve that Union between the parts of Great-Britain, on which the safety of the whole depends.—As we are lovers of our excellent constitution both in Church and State, and solicitous, that our posterity may be as happy in all future ages, as we hope long to continue under your majesty's most auspicious reign, we shall always steadily adhere to the Protestant Succession in the House of Hanover, and be most watchful to prevent any danger, which may threaten that settlement, so necessary for the preservation of our religion, laws, and liberties.—These are ends, truly worthy your majesty's pursuit: And we do with all humility represent to your majesty, that the most effectual way to give spirit to your friends, and defeat the restless malice of your enemies, will be, by discountenancing all persons of such principles, and avoiding all measures of such tendency, as may weaken your majesty's title and government, the settlement of the crown in the illustrious House of Hanover, and advance the hopes of the Pretender, and all other principles, and measures, that have lately threatened your royal crown and dignity, and which, whenever they prevail, will prove fatal to our whole constitution both in Church and State."

The Queen's Answer.] Her majesty gave this Answer:

"Gentlemen; I am extremely well pleased with your Address; and I fully depend upon the assurances, you give me, of your concurring in all the particulars I have recommended to you.—You may depend upon my care to encourage those, whose principles are agreeable to our constitution in church and state."

Controverted Elections—Bewdley Charter.] Dec. 15. The Commons spent most of the intermediate time on a great many Petitions about controverted elections, the most remarkable of which was in relation to the return of Bewdley in the county of Worcester: and previous to the hearing of the merits of that election, the Commons resolved to present an Address to the queen, That the several Papers relating to the Charter of the said borough, might be laid before the House: and to bespeak the favour of the Commons for Mr. Winnington, the following Speech made in the House near two years before, against the new Charter of Bewdley, was published and dispersed.

Sir J. Packington's Speech respecting the Bewdley-Charter.] Sir John Packington said: "Mr. Speaker, I did not intend to have troubled you this session, and I believe it will be to little purpose now: For if a gentleman stands up to complain of grievances, although this House meets in order to redress them, he is represented as a person that obstructs her majesty's business; if he finds fault with the ministry, he is said to reflect upon the queen; if he speaks against the continuance of the war, to prevent the beggary of the nation, to prevent the moneyed and military men becoming lords of us who have the lands, then he is to be no object of her majesty's favour and encouragement. This, Sir, is the pass we are brought to, and this is the freedom of speech you were pleased to ask for at the opening of this Session, and which of right belongs to every member of this House. I remember the time, when such restraints as these would not have been suffered or endured; but we are under arbitrary, ministerial power; and if ever there was an instance of it, it is in this that is now before us: But, how great soever the dis-

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courageements are to freedom of speech, I think myself obliged, as an English gentleman, who never will comply with an arbitrary ministry; as a member of this House, who have been always zealous to support the constitution of parliaments; as a neighbour to this borough in the case now before us, to speak my mind with that warmth I used to do, when the liberties of my country, or any part of it, seemed to be touched. For though the injury may be felt but by one single man, or one single society of men; yet the terror, the concern, and consequence of it, reaches unto all. We have had a fact this day of dangerous tendency laid before us, of a new Charter forced upon an ancient corporation, at the single instance of a noble lord, without a surrender of the old, contrary to law, to reason, and the right of the members thereof; which they refused to accept, as being inconsistent to their former Charter of king James the 1st, and, as they conceived, void in itself; since it is impossible for two Charters, any more than two grants, or two leases, to have a being at the same time. Ever since the Revolution, every thing has been transacted in this corporation pursuant to the Charter of king James the 1st, the right of the bailiff and burgesses, affirmed by judgment in the Queen's-bench, until this new corporation was erected by this unprecedented Charter, which the old was so far from consenting should pass, that they opposed it, by entering caveats in all the offices, and by shewing that it was contrary to her majesty's intention, expressed in the warrant.—Thus, Mr. Speaker, have you seen the prerogative enlarged and extended farther, I will be bold to say, than it was in the unhappy reign before the Revolution. Every gentleman remembers how highly things of this nature were resented in king James's time, when court-arts were used to wheedle and terrify boroughs into a surrender of their Charters; and when they found that method would not do, they endeavoured to take them away under colour of legal process, by bringing *quo warranto's* against them: This was then thought dangerous to the constitution; and very well it might, for the people of England could expect no other fruit from such a proceeding, but that this House would be filled with men of the army, with men of desperate fortunes, with pensioners, with vassals of the court, with slaves of the ministry, and with all those servile sort of gentlemen, that give with one hand to receive with the other, and thereby betray those they represent to arbitrary power: But this instance now before us, is more new and dangerous than taking away Charters by surrender or *quo warranto's*; those methods made some noise, alarmed the free people of England, and you see what came of it. But this is a quicker, a more silent method of doing it, which like white powder, destroys the liberty of the people, and subverts the constitution of this House without noise or notice. I beg, gentlemen, you would consider all the circumstances with which this Charter was attended, and I am sure, you cannot reflect upon them without grief. First, as to the time, you have heard, sir, how the Great-Seal of England was affixed to this Charter, upon the 22d of April 1708, the very same day, there was an Order made in Council to issue out writs, for calling that parliament. In this critical juncture was this corporation erected, I will not scruple saying, to serve the arbitrary designs of those who are afraid of a free election, who are afraid of a free and un-influenced parliament: such a parliament would scorn to flatter great men, would inquire into miscarriages, and punish such as were faulty; would call those ministers to an account who should prevail with the queen to turn men of ability and consideration out of place and employment for acting upon principles of honour and conscience, and doing their duty in this House. Another evil consequence with which this Charter is attended is, that so many new electors, and a new returning officer, are created by it, to the infringement of the liberty of the subject, and making all elections, in a manner, depend upon the will of the prince. I hope, gentlemen, you will seriously consider this matter, that you will lay aside all thoughts of party in this cause; for, if it be in the power of the crown to dissolve old corporations, and erect new, in so exorbitant a manner, we may bid adieu to liberty and property, and to all that has cost so much blood and treasure to maintain and defend; there will be no difference between a parliament of Great Britain and a parliament of Paris.—I hope, once more, gentlemen, you will seriously consider how much the honour and justice of this house is concerned in the determination of the case now before you. The eyes of the people have been some time opened; they will observe, they will judge of our votings in this cause; and expect from us, as we have put a stop to unjust and exorbitant power abroad, that we should neither suffer nor endure it at home."

The new Charter of Bewdley voted void and illegal.] Dec. 18. The Commons ordered the clerk of the crown to attend the next morning with the last return for the borough of Bewdley, by which Anthony Lechmere, esq. was returned, and also with the returns of Mr. Herbert, now lord Herbert, and Mr. Cornwall, to serve for the said borough; and having the next day, fully heard the merits of the election for the said borough, resolved, 1. "That Salway Winnington, esq. was duly elected. 2. That the charter dated the 20th of April 1708, attempted to be imposed upon the borough of Bewdley, against the consent of the ancient corporation, was void, illegal, and destructive of the constitution of parliament. 3. That an Address be presented to the queen, laying before her majesty the Resolution of the House, and desiring, that she would give directions to her Attorney General to take the proper methods for repealing the said Charter, and for quieting the said borough in their enjoyment of their rights and privileges."

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On the 23rd both Houses adjourned to the 2nd of January, 1711; on which day, Secretary St. John acquainted the Commons "That pursuant to their Address of the 15th of December last, the queen had directed Mr. Attorney General and Mr. Solicitor-General to take the most proper and effectual measures for repealing the Charter of Bewdley, mentioned in the said Address; as also that her majesty had given directions to the proper officers to lay before the House accounts of prosecutions ordered by, or carried on at the expence of the crown, &c. according to the desire of this House in their Address of the 22d of December last."

Motion for returning Thanks to the Duke of Marlborough dropped.] On the same day the Address was voted in the Lords, the earl of Scarborough having made a motion, that the Thanks of the House be returned to the Duke, some objections were raised against it; and his grace's friends being apprehensive, that if the question were put upon it, the negative might carry it, said, it would be time enough to speak of that matter when the Duke was come home; whereupon the House was adjourned. The next day, there was a Complaint made by a noble peer, against the Lord Keeper, for taking upon him to introduce the Scotch Lords to the queen, being himself no peer by patent: but the Lord Keeper excusing his mistake, if he had committed any, with a great deal of modesty; and on the other hand, the late Lord Chancellor maintaining that he had right to act as he had done, no farther notice was taken of it.

Queen's Message concerning the War in Spain.] January 2, 1711. This day, the following Message was presented to the Lords:

"Her majesty having received notice that there has been an Action in Spain, very much to the disadvantage of king Charles's affairs; which having fallen particularly on the British forces, the queen immediately gave directions for sending and procuring troops to repair this loss.—Her majesty acquaints this House with this intelligence, and likewise with her orders given thereupon; not doubting but the parliament will approve thereof,* and concur in their assistance for remedying so great a misfortune."

The Lords' Address thereon.] Upon this their lordships presented the following Address:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, return our most humble thanks to your majesty, for your gracious message relating to the present state of affairs in Spain; and for the orders your majesty has been pleased to give for sending troops of your own, and exciting your allies to send some of theirs in due time, in order to repair this loss: and, as this misfortune may have been occasioned by some preceding mismanagement, we take the liberty to assure your majesty, we will use our utmost endeavours to discover it, so as to prevent the like for the future.—And such is the confidence we have in your majesty's great prudence and care, that we humbly assure your majesty, we will, to the utmost, give all the assistance in our power, to recover the ill condition of those affairs, and to support the war against the common enemy, in all places where your majesty in your wisdom shall think it necessary, for the obtaining an honourable and lasting peace; in the concluding of which, we entirely rely upon your majesty."

The Queen's Answer.] To which Address her majesty returned this Answer:

"That her majesty took very kindly the Address of this House, and doth not doubt of the Lords hearty concurrence in supporting a War of so great importance as this is."

First Debate in the House of Lords on the War in Spain.] Jan. 4. The Lords having resolved to enquire into the Management of Affairs in Spain, their lordships, upon a motion made by the duke of Beaufort, made application to the queen to stay, for some days, the earl of Peterborough's Journey to Vienna, that they might make use of such lights and informations as he was able to give them, concerning those affairs. Accordingly, the earl of Peterborough, who designed to have set out the next day, having for that purpose sent part of his servants and his equipage to Greenwich, was countermanded; and the peers having, on the 5th, taken the Affairs of Spain into consideration, the earl of Abingdon, chairman of the committee of the whole House, put severally five Questions to the earl of Peterborough;* to

* "This," says bishop Burnet, "was a mean expression from the sovereign, not used in former messages, and seemed below the dignity of the crown."

* "Charles Mordaunt, third earl of Peterborough, one of those men of careless wit and negligent grace, who scatter a thousand bon-mots and idle verses, which we painful compilers gather and hoard, till the owners stare to find themselves authors. Such was this lord: of an advantageous figure, and enterprising spirit; as gallant as Amadis and as brave, but a little more expeditious in his journeys; for he is said to have seen more kings and more postillions than any man in Europe. His enmity to the duke of Marlborough, and his friendship with Pope, will preserve his name, when his genius, too romantic to have laid a solid foundation for fame; and his politics, too disinterested for his age and country, shall be equally forgotten. He was a man, as Pope said, who would neither live nor die like any other mortal. Yet even particularities were becoming in him, as he had a natural ease that immediately adopted and saved them from the air of affectation.

"This nobleman in his youth served under the admirals Torrington and Narborough in the Mediterranean against the state of Algiers; and distinguished himself at Tangiers, in Africa, when it was besieged by the Moors. Disliking the proceedings of the court in the

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which his lordship returned distinct answers, containing the substance of the facts and passages published, some years before, by Dr. Friend, a physician, who attended his lordship in Spain, in a book, entitled, "An Account of the earl of Peterborough's Conduct," &c. wherein his lordship's management is justified and highly extolled; not without some reflections on the conduct of the other generals in Spain and Portugal, particularly, the earl of Galway's.

After this, the Lords ordered the earl of Galway, and the lord Tyrawley, (formerly known under the name of sir Charles O'Hara) to appear before them the next day, which they did accordingly; and the first having a chair appointed for him without the bar, by reason of his infirmities, was desired by the chairman to give the Lords an Account of what he knew concerning the affairs of Spain. The earl of Galway having excused his deficiency in not expressing himself so properly as he could wish in the English Tongue, gave the Lords an ingenuous Account of his Conduct, from his first setting out for Portugal, till the time he was recalled; with which their lordships appeared to be well satisfied: and as he said, his memory might have failed him in several important particulars, he desired that he might be allowed to give in writing, what he had delivered by word of mouth, which was readily granted.

As for the lord Tyrawley, being desired to say what he knew about the same affairs, and not knowing the drift of such an enquiry, but rather suspecting his own reputation might be concerned, his lordship stood upon the reserve, and said, That when he was in the army he kept no register, and carried neither pen nor ink about him, but only a sword, which he used the best he could upon occasion; and that all he knew, in general, was, that they always acted according to the Resolutions of the Councils of War.

The lords Galway and Tyrawley being withdrawn, several peers, particularly the earls of Wharton and Godolphin, the lord Halifax and some others, spoke in favour of my lord Galway; and among the rest,

The Duke of *Marlborough* said, That it was somewhat strange, that generals who had acted to the best of their understandings, and had lost their limbs in the service, should be examined like offenders, about insignificant things.

After a short debate, the Lords adjourned to the Monday following, when the earl of Galway delivered his Narrative in writing, as did also the earl of Peterborough the Recapitulation of his Answers, with several other papers.

January 9. The House of Peers being sat, in order to resume the consideration of the Affairs of Spain, the duke of Devonshire moved that Dr. Friend might be summoned to attend, which was ordered. There being a great many strangers in the House,

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reign of James the second, he was among the first of the English nobility who engaged in the prince of Orange's service, and was one of those, as bishop Burnet relates, whom that prince chiefly trusted, and by whose advice he was principally directed. Being instrumental therefore in promoting the Revolution, on the accession of king William he was appointed one of the lords of the bedchamber, first lord commissioner of the treasury, and in 1689 had the additional dignity of earl of Monmouth. In 1692 he served under that monarch during the campaign in Flanders. By queen Anne in 1705, his lordship was declared general and commander in chief of the forces sent to Spain and joint admiral of the fleet with sir Cloudesley Shovel. His conduct in this expedition obtained the thanks of the House of Peers for his great and eminent services. In 1710-11 he was employed as ambassador at Turin and other Italian courts, and in 1713 was installed a knight companion of the order of the garter. In the reign of George the first he was constituted general of all the marine forces in Great Britain; and had the same commission continued by George the second. Having made a voyage to Lisbon, from the declining state of his health, he died there in Oct. 1735, aged seventy-seven.

"His lordship was a man of frolic. Richardson in his Anecdotes says, the great earl of Peterborough, who had much sense, much wit, and much whim, leaped out of his chariot one day, on seeing a dancing-master with pearl-coloured silk stockings, lightly stepping over the broad stones, and picking his way in very dirty weather, and ran after him with his sword drawn, in order to drive him into the mud, but into which he of course followed himself. This facetious nobleman was once taken by the mob for the duke of Marlborough, who was then in disgrace with them; and being about to be roughly treated by these friends to summary justice, he addressed them in these words: 'Gentlemen, I can convince you by two reasons that I am not the duke. In the first place, I have only five guineas in my pocket; and in the second, they are heartily at your service.' So throwing his purse among them, he pursued his way amid loud acclamations and huzzas.

"Dr. Freind, in his Account of lord Peterborough's Conduct in Spain, says he never ordered off a detachment of a hundred men, without going with them himself. Of his own courage his lordship used to say, that it proceeded from his not knowing his danger; agreeing in opinion with Turenne, that a coward had only one of the three faculties of the mind—apprehension. The remittances expected from England not coming to his troops when he commanded in Spain, he is said to have supplied them for some time with money from his own pocket." Park's enlarged Edition of Orford's Noble Authors, vol. 4, p. 163.

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The Earl of *Godolphin* moved, That the House might be cleared: but

The Duke of *Buckingham* opposed it, saying, That he supposed those strangers were brought in by the members themselves, and therefore were under the protection of the House; that it might afterwards be moved, that the Lords eldest sons should also go out, though they had as much right to stand behind the throne, as the Lords to sit where they sat; that he had, himself, enjoyed that privilege, and wished himself to be young enough to be amongst them.—Hereupon it was carried, that the strangers that had been placed in the gallery, should be suffered to stay. The preliminary about strangers being over,

The Duke of *Buckingham* said, he hoped that business would not take up so much of their time as it had done two or three years before.

The Earl of *Scarborough* said, That the principal point which they ought to take into their consideration, and strictly examine into, were the Council of War held in Valencia, the 15th of January, 1707, N. S. and the joining of the troops brought by the earl of Rivers, with those under the command of the earl of Galway. After this the earl of Wharton moved, Whether the earl of Galway's Memorial should be read in the House, or in the Committee; and the earl Ferrers saying, It was more proper to read it in the Committee; it was agreed it should be so; and the earl of Peterborough having desired, that his Recapitulation might also be read in the Committee, the same was granted. After this the House adjourned during pleasure, and resolved into a Committee of the whole House, of which the earl of Abingdon was chosen chairman as before.

It being known that the Queen desired to hear this memorable Debate *incognito*, the same did not begin till her majesty was come, that is, about a quarter past two in the afternoon. Hereupon, the duke of Buckingham moved, That the earl of Galway's Paper might be read; and the chairman having ordered the clerk to read it accordingly, the earl of Peterborough renewed the instances he had made before, that the lord Galway might be asked some Questions, and that he and the lord Tyrawley might be called in: but the lord Cowper said, That it was not proper to ask the lord Galway any questions, till the earl of Peterborough's Narrative had been read in his presence, which was agreed to. Hereupon the earl of Peterborough said, that to avoid all mistakes, he desired his paper might not be called a Narrative, which might look like an accusation, for he accused nobody; but only a Recapitulation of his Answers.

THE EARL OF GALWAY'S NARRATIVE.

After this, the clerk read the earl of Galway's* Narrative, being as follows:

"In obedience to your lordships' commands, I present you with a short Narrative in writing, containing the most material occurrences that happened in Portugal and Spain, during

* "Son of the ambassador from France to Charles 2, and who also came over to England, in 1685, to solicit pardon for his great nephew the unfortunate lord Russell. On the Revolution Henry and his brother offered their services in Ireland. William wished to decline them, because their father, the old marquis of Rouvigny, dying, he was conscious that the French court would deprive him of his patrimonial inheritance; but he was so partial to the king, as a military prince, that he despised the loss of his estates. His gallantry in Ireland, where his brother fell at the battle of the Boyne, was rewarded with the title of earl of Galway. William afterwards sent him to Italy, to fight under the duke of Savoy: but that sovereign withdrawing from the confederacy, he returned, and was made commander in chief in Ireland. Queen Anne appointed him generalissimo of the British army in Spain and Portugal, where he was at first very successful: but the battle of Almanza, fought April 25, 1712, produced a reverse of fortune that rendered the Austrian cause hopeless. The duke of Berwick, James 2's illegitimate son, general of the French army, opposed to him, desirous of compelling him to fight to disadvantage, sent two Irishmen as deserters, who told Galway that the duke of Orleans was coming with 12,000 men to join Berwick to force him to fight: Galway fell into the snare, and immediately attacked the enemy, when he did all that skill and gallantry could effect; but as his soldiers were exhausted by the fatigue of marching three Spanish leagues in the heat of the day, previous to the battle, the French army obtained a complete victory. The English were greatly exasperated with the earl, who had superseded the skilful and intrepid Peterborough. Neither the inferiority of numbers, the fatigue of troops, or the gallantry he displayed, could compensate the defeat. He did not stand alone in the public indignation, but he was most blamed by the parliament. Swift says, that some friend of his published a four shilling pamphlet in his defence. The queen wished him to accept a diplomatic situation, but he declined it, as improper both from his age and the difference of his former and opposite pursuits, though it is evident he had been at Turin in the double capacity of general and plenipotentiary.

"It does great credit to the duke of Marlborough that he vindicated this unfortunate general in the House of Lords, saying, "it was somewhat strange that generals who had acted to the best of their understanding, and had lost their limbs in that service, should be examined like offenders about insignificant things." He had not only been badly wounded in the face at Almanza, but at the siege of Badajoz had lost one of his hands, after which he calmly continued to give orders for two hours. Galway deserved a better fate. The violent Swift accuses him of severity in Ireland, and for having compelled the earl of Kildare to give up

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the time I had the honour to command the queen's troops there.

"In June, 1704, being retired in the country, I received the queen's commands to attend her majesty at Windsor, where she was pleased to order me to go and take upon me the command of her troops in Portugal. I desired to be excused from accepting an employment which I did not think myself equal to, but the queen seeming fixed in her Resolution, I obeyed.—Upon my arrival at Lisbon, I found the two kings of Spain and Portugal already marching for Abeira, and joined their rout. But the season was much advanced, and it being thought impracticable to attack the enemy there, it was soon resolved to retire into winter-quarters.—The troops being in quarters, I went to Lisbon, where I had certain advice that Gibraltar was besieged, and Mareschal Thesse gone thither; upon which, considering the importance of the place, I immediately sent to the prince of Hesse (governor there) four of the best regiments of foot under my command, viz. the battalion of guards, my lord Barrimore's, lord Donnegall's, and lord Montjoy's; together with a large supply of ammunition and provisions, which the garrison wanted extremely. This relief arrived in good time, and proved so successful, as not only to defend the place, but to hold out a siege that entirely ruined the enemy's infantry, and prevented their being able to take the field the following spring in Alentejo.—Being informed of their condition, as likewise that there was but a very small garrison in Badajoz, I endeavoured to persuade the Portuguese to attack that place, but could not then prevail; however, they took Valencia de Alcantara by storm, and Albuquerque by capitulation, under the command of the Conde das Galveas, and afterwards retired to quarters of refreshment, as is usual in the excessive heats of the summer.

"During this interval I went to Lisbon to confer with the earl of Peterborough. I found the king of Spain designed to embark with him; and not doubting but the earl was bound upon some important expedition, though I had no orders to that purpose, and had now only one regiment of horse, two of dragoons, and five of foot left under my command in Portugal, I offered him whatever part of these troops he pleased to desire. The earl accepted of my offer, and chose the royal regiment of dragoons, and Cunningham's, taking likewise an order with him from me to the governor of Gibraltar, for such regiments from thence as he should think fit to take on board, leaving only a sufficient garrison for the defence of the town, and accordingly his lordship took from thence those four regiments, which I had sent thither to the relief of the place.

"After the king of Spain and my lord Peterborough were sailed, with great difficulty I prevailed upon the Portuguese to besiege Badajoz in autumn; but, instead of taking the field, as we had agreed to do, in the beginning of September, it was the 2nd of October before I could get them to invest the place, under the command of the marquis das Minas. Our cannon had already begun to play, with success, when an accident happened in a battery, which I went to repair; and, being there to give the necessary orders for that purpose, I lost my arm by a cannon-shot from the town; but it is the general opinion, that if the deposition which I put in writing the very morning the misfortune happened to me, and proposed to a council of war, where the same was agreed to, had been duly executed, Mareschal Thesse could never have relieved the place, which must necessarily have fallen into our hands in a very few days.

"Not long after the siege was raised, news came of the surrender of Barcelona to king Charles, and about a month after, that Mareschal Thesse had marched with the best part part of the forces, quartered on the frontier of Portugal, in order to join the duke of Anjou and besiege Barcelona again.—Upon this I resolved to propose to the Portuguese to march to Madrid, concluding, that either the duke of Anjou would, by this means, be obliged to quit the siege of Barcelona, or else that we could meet with no opposition in our way. For this purpose I took a journey to Lisbon, even while my wound, upon the cutting off my arm, was still open, and had such success with the king of Portugal that his troops took the field the following spring, by the 26th of March, N. S. under the command of the marquis das Minas, with intention to besiege Alcantara, and march that way for Madrid. Mean time the duke of Berwick, who had been sent to command on the frontier of Portugal in Mareschal Thesse's stead, had thrown ten regiments of foot into Badajoz, and marched with seven more, and a body of 4,000 horse towards Alcantara, in order to reinforce that garrison by the addition of those seven regiments, which he accordingly left there, and then came back to Brocas with his cavalry; where we surprized him, beat his rearguard, pursued him a considerable way, and took possession of the castle of Brocas; in which place we left a garrison to cover our foragers, during the time that we should lie before Alcantara.

"After this, we continued our march to Alcantara, which surrendered to us in a very few days; we took ten good battalions prisoners of war there, and found about sixty pieces of cannon in the place, with great store of small arms and ammunition.—After the surrender of Alcantara, we crossed the Tagus there, and having taken in some places of small note upon our march and forced a pass at Massagona,

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his office of comptroller of the musters, granted him by Charles 2, worth 300*l.* for a pension of 200*l.* but this seems only party spleen. He died with the character of a most gallant and skilful general; possessing eminent virtue, great piety, and zeal for religion. In his manners he was simple, and unaffected in his dress." Noble's Continuation of Grainger.

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where the enemy had entrenched themselves, we advanced as far as the bridge of Almaras. —But here the Portuguese resolved unanimously to return home again, notwithstanding all the arguments the generals of the Allies could offer to the contrary, which happened very unfortunately; for had the army marched directly from thence to Madrid, in all probability we must have arrived there at the same time with the news of the duke of Anjou's being returned to France; the dutchess must have been obliged to escape alone; and the tribunals being still there, it is very likely the war would have been over.—Some of the Portuguese were willing to go back and besiege Badajoz, which was entirely laying aside all thoughts of Madrid, but others were for attacking Cwidad Rodrigo, and by joining with these, I engaged them, after the taking of that place, to go to Madrid. But the time, which was lost on this occasion, had given the duke of Anjou an opportunity of returning from France to Madrid, from whence he withdrew the court, and all the tribunals, before our army could reach that place; so, upon our arrival there, we found Madrid an open village; and the troops having been extremely weakened by so long a march, were not above 4,000 horse and 8 or 10,000 foot.—The Portuguese generals, and those of the Allies, thought it highly necessary the king of Spain should come to Madrid, as soon as possible; for besides the advantage his presence might have been to his own affairs, it was of the last importance to us to be immediately joined by the forces with the king, and under the earl of Peterborough's command; not being strong enough, without them, to attack the duke of Anjou; who had already received some succours from France. Besides the 5,500 horse and 8,000 foot, of which the duke of Burwick's army consisted, after he had been joined by the Conde de la Torres.

"Being perfectly informed of the enemy's strength and motions, and having great reasons to believe that if we were joined in time by all the forces with the king and the earl of Peterborough, we might, in this favourable conjuncture, drive the duke of Anjou entirely out of Spain, make ourselves absolute masters of that kingdom, and put an end to an expensive war: All the while we lay at Madrid and Guadalaxara I dispatched every day one or more expresses, and the greatest part of them officers, with letters to the king of Spain, and to my lord Peterborough, representing to them both the importance of our being joined forthwith, and earnestly desiring that no time might be lost in improving so critical a juncture.

"As the next best means to advise our friends of our arrival at Madrid, the first Gazette day, after we got thither, I caused it to be published in the Gazette, that we were there, and expected, in a very few days, to be joined by the king and the earl of Peterborough, hoping that the natural curiosity of the Spaniards would give a printed newspaper a free passage. —But notwithstanding all the diligence that was used in this matter, on our part, near six weeks were elapsed at Madrid and Guadalaxara, before we received any advice that the king was upon his march to join us; and, in the mean time, the duke of Anjou's army was so much increased by daily reinforcements from several parts, that he was now become superior in number to us, even after we were joined by those forces which the king and my lord Peterborough brought along with them.—And I must say that it is the general opinion, and I do verily believe, as the Portuguese lost one fair opportunity of putting an end to the war, by not marching directly from the bridge of Almaras to Madrid, so we now lost another, for want of being joined in time by the forces under the command of the king of Spain and the earl of Peterborough.

"And, whereas the noble lord is pleased to aver, that he never received any advice from me of my arrival at Madrid with the Portuguese: and, as an argument of my neglect of him on that subject, produces an instance of one officer, that happened to pass through his quarters with letters from me to the king, and none for his lordship; I am obliged to observe, that I gave this officer an hundred pistoles, and ordered him to go directly to the king of Spain, who then lay at Saragossa; but he was accidently forced to go out of his way, to avoid one of the enemy's parties, which was the true occasion of his passing through the earl of Peterborough's quarters at Valencia, contrary to his first intention. But several other officers, who were dispatched by me to the earl, assured me they had the honour to deliver him those letters which I wrote to his lordship from Guadalaxara; and even taking the fact to be as the earl of Peterborough is pleased to state it himself, it is plain his lordship had, at least, some verbal informations from that very officer who passed through his lordship's quarters, and consequently could not be altogether ignorant, either of the place where the Portuguese army lay, or of the necessity of joining them, without loss of time.

"After the general had got king Charles proclaimed at Madrid, it was thought fit to advance to Guadalaxara; where he had, at last, advice, that the king was coming to join us, and at the same time were informed, that the duke of Anjou was at Guadalaxara, to which place we marched to prevent the enemy from intercepting the king. Upon our approach, the duke of Anjou repassed the river, which little advantage we contented ourselves with, for it was not thought advisable to follow, and attack him on the other side, being advantageously posted and stronger than we.—We stayed here two days, and when we thought the king was out of danger, we again retired to Guadalaxara, where we were joined by his majesty and my lord Peterborough, with two regiments of Spanish dragoons, and part of Pearce's, for his lordship had left behind him in several places, thirteen battalions of English foot, with the remainder of Pearce's, and two other cu-

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tire regiments of dragoons. So soon as the armies were joined (having, upon my arrival at Madrid, sent captain Montague to give the queen an account of our march, and to desire her majesty's leave to retire) I waited upon my lord Peterborough, offering him the command of the English, and to receive his orders, till I should have the queen's leave to go home; But because the marquis das Minas would not do so too, my lord Peterborough chose not to stay with the army, and within a few days after went away.—The king resolved, by advice of the general officers, to go to Chincon, where all things necessary for the army were found in great plenty. But the season being far advanced, a council was held about taking winter quarters, where it was agreed to be by no means safe to canton on that side the Tagus, for fear of losing all communication with the sea; besides, the country was so open, the troops could not be divided without danger.

"For these reasons, after having stayed at Chincon about three weeks, though the army had forage and provisions for as many more, it was agreed forthwith to cross the Tagus, lest the approaching rains should render the fords impracticable; nor was there a possibility of taking winter quarters so commodiously as in the kingdom of Valencia, where the situation of the country rendered us secure against any attempts from a superior army.—This resolution was put in practice, and we made our retreat in good order, notwithstanding all the interruption the enemy were able to give us, and were obliged at Ymesta to cross the river in sight of all their cavalry.—Whilst the army was in quarters, my lord Peterborough came back from Italy; and whereas it has been suggested, that his lordship did demand from me 5,000 men, for some expedition on the side of Catalonia, which were refused; I must declare I do not remember that the earl ever applied himself to me, in particular, upon that subject; if he had, the answer must naturally have been, that the matter depended not upon me to grant, or refuse, but upon the king of Spain, under whose command I was.

"But I do remember the earl proposed this at some general council, or council of war, held in the king's presence, about the operations of the ensuing campaign, and joined with those that were of opinion, that it was by no means convenient to divide the troops, as may appear by a copy of that opinion signed by my lord Tyrawley, and by me, bearing date the 15th day of January, 1706-7. But I must beg leave to observe, that was not the decisive council for the operations of the campaign, for many subsequent councils were held in the king's presence, more important than this; and though in them there might have been some variety of opinions as to the manner, yet almost all the generals and ministers, that assisted at those councils, agreed perfectly in the substance, which was, That we should join our troops and march to Madrid: Some indeed, were for passing through the plains of the Mancha, and crossing the Tagus; but this opinion was overruled, because of the hazard in passing the river if the enemy opposed us, and of the scarcity of provisions in the Mancha, which had been exhausted by the enemy's winter quarters; for which reasons it was, after many debates, agreed, That we should take the way of Valencia and Arragon, passing the Tagus at its head, to avoid all opposition. But lest the kingdom of Valencia might, by this means, be any ways exposed, it was likewise resolved, before we should begin our march, to destroy all the enemies magazines of provisions and forage, in the country bordering upon the frontier of Valencia, to prevent them from making incursions: And I do take upon me to aver, that nothing was ever transacted during the time I had the honour to command the queen's troops, contrary to the positive resolution of any general council, or council of war, unless that resolution was afterwards repealed by some subsequent council.—So sensible was every one of our being already too weak, it was resolved to desire my lord Rivers, who was lately arrived at Lisbon, would join us with the troops that came under his command from England, which his lordship did, not long after.

"For the better execution of what had been resolved for our march through Valencia and Arragon, proper commissaries and officers were dispatched to provide bread and forage sufficient for the troops, in all places where it was designed the army should pass. I went with the marquis das Minas to the frontiers, towards the latter end of March, and we took the field the beginning of April: We ruined part of the country bordering upon the frontiers of Valencia, before the enemy could join their troops, particular Yecla, where they had their largest magazines; and judging it necessary to take in the castle of Valencia, to prevent their army from being masters of one of the most considerable inlets into the kingdom of Valencia, set down before that place; but it proved stronger than was expected, and after we had spent some days there, we had notice the enemy had assembled their troops at Almanza.

"Upon this advice, a Council of War was held, where it was unanimously resolved to fight the enemy, which we were the rather induced to, because it was judged impossible to subsist upon the defensive in the kingdom of Valencia; for the country had been already so much exhausted by our winter quarters, that there was not two days provision to be found for the army, and we could not have been able to have subsisted there so long as we did, but for the supply we found in the enemy's magazines at Yecla: Nor did we think it proper to pursue the once intended march through that kingdom and Arragon, lest provisions should be wanting, leaving the enemy so near, and in a condition to follow us; for though commissaries had been employed, there was reason to apprehend, the towns we were to pass through would shut their gates against us, whilst we were closely followed by the enemy, and per-

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secuted by the peasants of the country, who, grown desperate by seeing themselves abandoned, would naturally be up in arms in the mountains. Besides, we had certain advice that there was already a body of French troops, consisting of 8,000 men, in Spain, and upon their march to reinforce the enemy. Thus, as the army must inevitably have perished, without fighting, it was thought reasonable to run the hazard of a battle, wherein we had an equal chance to come off victors; which was accordingly done two days after, on the 25th of April, 1707, N. S. but with ill success.

"The cavalry of the allies, with some small part of the foot that had escaped the ill fate of the day, joined again at Alcira, from whence they retired to Tortosa; and, finding the enemy had crossed the Ebro, endeavoured, by opposing their passage over the Chinca, to amuse them till the latter end of the campaign. Mean time, with great expedition, I gathered the broken remains of the foot, (out of which I formed 5 battalions, and raised four more of Catalans, with which we made a stand against a victorious enemy, and preserved the principality of Catalonia entire, excepting Lerida. After the taking of which place, the enemy thought fit to retire to winter quarters, and we did the same.

"In February following the marquis das Minas, with most of the Portuguese generals, embarked for Lisbon; and having the queen's leave to do so too, I visited the several quarters where the troops in her majesty's pay, were lodged; and, having left the necessary orders with major generals Carpenter and Wills, for their government in my absence, took the same opportunity of going thither.—Upon my arrival in Portugal, I found the queen's orders there, to take upon me the characters of ambassador extraordinary, plenipotentiary, and general of her forces; which charges I accepted in obedience to her majesty; though I had nothing so much at heart, as the pleasure of returning to that retirement, from whence only the queen's positive command could have drawn me."

The Five QUESTIONS put to the Earl of Peterborough, and his Lordship's ANSWERS.

After the reading of this Paper, the earl of Rochester moved, That the lord Galway should be asked, whether he had any thing to add to it? Whereupon the earl of Godolphin said, That the earl of Peterborough's Narrative ought to be read before hand, in his presence. The earl of Galway and the lord Tyrawly being called in, the clerk read the five Questions that were put the Friday before to the earl of Peterborough, with his lordship's Answers separately.

First Question.

"That the earl of Peterborough be desired to acquaint the Committee how he was supported with men and money, during the time he commanded in Spain, and what applications he made for either, and to whom?

Answer.

"To the first Question he was pleased to answer, That the management of the war in Spain, when under the conduct of other generals, was not only supported by great numbers of men, and vast sums of money, but also with notorious falsehoods, published in their favour, to excuse their repeated disgraces; whereas his lordship was not supported as the service required with either men or money; but had his conduct traduced, notwithstanding his constant successes, by multitudes of representations and suggestions to his prejudice; all of them detected to be false, before your lordships, on the evidence lying before the House, or in his hands to prove them so, whenever his lordship should be allowed the opportunity.—That he had no reinforcements of men till three or four days before the French raised the siege of Barcelona; that Mr. Stanhope, who came with those forces, in his letter represents them, as far short, in his opinion, of what the occasion required; and that he received no money from England, till his coming back to Valencia, after that siege, and that little sum was out of his lordship's power to make use of, the pay-master for above a month disputing to issue it, by his lordship's orders, it appears by proofs upon oath in this House.—That the troops he brought there did not amount to 5,000, though published in the English Gazette to amount to 25,000.—That no one regiment was provided with the least equipage; no mule, nor horse; no carriage for the troops, nor any beast of draught for the artillery; no magazines for provisions for a march. His lordship having taken and relieved Barcelona, drove 7,000 men with 3,000, out of Valencia, and 25,000 men out of Spain with the inconsiderable forces he had, before he received one penny from England. His lordship said farther, he never had any establishment ordered, nor was allowed for baggage-money, forage-money, or the train of artillery, till just about the time when the command of the forces was put into other hands. His lordship was pleased to say, he was forced to shift as well as he could with what money he had of his own, and could pick up and down the world, and was rewarded for his pains and services, with having his bills protested, which he drew from Genoa, for monies put on board her majesty's ships; for which her captains were accountable to the pay-master, and put out of the earl's power. That the troops received the full sum without any discount, though it was made use of by a Secretary of State, as one motive for recalling his lordship, that he had drawn the bills at 25 per cent. discount. The earl further took notice, that, though he wanted money, and all necessaries whatsoever, it was objected to him, that he did not immediately put the troops in such a condition into the field, which was utterly impossible, for the aforesaid reasons; and his lordship affirmed, that a merchant had stopped, and yet retained 1,400*l.* of his lord-

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ship's money in his hands, for the damages he pretended to have received by the protesting the bills, which the earl of Peterborough had drawn in his favour. His lordship further observed, that some lords had seemed unsatisfied upon this head, though, notwithstanding all all those difficulties, it appeared by the oaths of all the officers examined in the House, that the troops sent to the siege of Requena went without baggage, which place was to be taken to make the entrance into Castile possible; and that all the regiments began their march, regiment by regiment, the moment they had their mules delivered to them for the equipage. His lordship concluded this head with observing what untrue representations were made in favour of others, when, to excuse the fatal battle of Almanza, a king was to be used at that rate, as to have it in an account printed by authority, declared, That he took numbers amounting to 4 or 5,000 men, from a battle to be fought for his crown; the very regiments of horse and foot being mentioned by name; whereas it is notoriously known to the whole world, that he took only about two hundred miserable Spanish dragoons; and that of the regiments mentioned to be taken away from the English general in Valencia, some of them were never in being; others were regiments of trained-bands in Barcelona, and none of them within 250 miles of the place.

Second Question.

"That the earl of Peterborough may acquaint the House of what he knows of the earl of Galway's proceedings during his stay with the army at Madrid, his march to Guadalaxara, and his retreat to Valencia, and if he knows any thing of the opposition made by the king of Spain, the count de Noyelles, and the Spanish ministers and generals, to those measures?

Answer.

"To the second Question the earl was pleased to answer, That from the time the earl of Galway came first into Spain as far as Almaras, and thence returned back into Portugal, the earl of Peterborough had no advices from the earl of Galway, no account of the motives of that retreat, nor any hopes given him of the return of the Portuguese into Spain. That, after the raising the siege of Barcelona, and the retreat of the French army out of Catalonia, the earl of Peterborough received no letter or message from the earl of Galway, after his second entrance into Spain; nor had he the least notice of his situation, circumstances or designs, till he saw his troops retreating from the enemy to take the strong camp of Guadalaxara, though the marches of the king from Arragon, and those of the earl of Peterborough from Valencia, were well known in the Portugal camp. That two several officers, sent by my lord Galway, came to Valencia, and brought no letters to the earl of Peterborough, one of them demanding money for the pursuit of his journey.—That as to the persons who advised the king to go by the way of Arragon, and not by Valencia, he knows no further, (being at that time absent from his majesty) but that having extremely opposed it, and having writ to the Secretary of State, at his first coming to Valencia, against it, he received an answer to this purpose, That he hoped the earl of Peterborough would bear the mortification and disappointment with patience, since the king was so resolved; and a messenger by the appointed token, known to be sent by the lord Galway, had given notice, that the said earl expected the king by the way of Arragon, and had given to understand how every thing was prepared for his reception that way.

Third Question.

"That the earl of Peterborough acquaint the House, what advice his lordship received from the earl of Galway at Madrid, in order to concert any public measures, and what his lordship knows of the reasons that induced the king of Spain to go by Arragon towards Madrid, and not by Valencia?

Answer.

"To the third Question the earl is pleased to answer, That the earl of Galway continued about 40 days at Madrid, without making any endeavours to augment his troops, or provide any magazines for the subsistance of his army; that meeting the enemy unexpected, and retreating to the camp of Guadalaxara, the troops were without provisions, and in the greatest disorder; that the measures taken in that retreat, where 5,000 men were lost without a blow, and the whole cavalry ruined, were positively against the king's opinion, and that of all his officers and ministers: that the earl of Peterborough had the accounts he gives, from the king of Spain's own mouth, and several of his generals; and it will particularly appear by letters from count Noyelles, velt mareschal of the Emperor, and general to the king of Spain, and from Mr. Stanhope, which letters the earl is ready to produce: and that it is notorious to the whole world, that if the earl of Galway had pursued the enemy ten days longer towards the Ebro, all the horse under the Mareschal of Berwick had deserted to king Charles, and the French could never have returned to Spain.

Fourth Question.

"If his lordship pleases to give an account of the councils of war in Valencia, about the 15th of January, 1707, upon notice of the earl Rivers sailing into the Streights, and upon the projects of that campaign, and what number the king took from the army, and an account of his manifesto upon so doing?

Answer.

"To the fourth Question the earl is pleased to answer, that several councils of war were held in the month of January, at Valencia (about that time that the intelligence was brought, that the forces under the earl Ri-

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vers were entered into the Mediterranean) in order to adjust the measures for the ensuing campaign; that the matters therein debated, were principally, whether the army should march towards Madrid, and seek the enemy? In the debates, the earl of Peterborough positively affirms, that the earl of Galway, Mr. Stanhope, and the lord Tyrawley supported those measures, with the Portuguese general; and that the king, the count de Noyelles, the Spanish generals and ministers, with himself argued strongly against those measures, as highly dangerous and impracticable, and this in repeated councils of war: till at last the earl of Peterborough, solicited by the king of Spain to renew the debate, desired the king, that all called to the council should bring their opinion in writing, that every body's opinion and reasons for that opinion, might appear and be known to the words, which, according to the king's commands, were put in writing and delivered at the council. That the shid earl sent his opinion home, and gave the Lord Treasurer an account of the controverted points in that Council of War, by letters about that time, and after the battle of Almanza, from Genoa; which letters, attested upon oath to be true copies, he is ready to produce.—That the king's opinion, and that of all his generals and ministers, in concurrence with the earl of Peterborough, were over-ruled by a minister of her majesty, assuring that her majesty had given him orders to declare, in her name, that her positive orders were, that they should seek the enemy, march to Madrid, and not divide the forces, upon any occasion whatsoever.—That, in a subsequent Council of War, the best measures were concerted for the putting this in execution, against which the king and so many generals and foreign ministers had declared; and that it was unanimously agreed, the army should march by the head of the Tagus into Arragon, to avoid the enemy's horse in the plains, and not to have that river to pass before the enemy.—That, notwithstanding this, the earl of Galway brought the army into the plains of Valencia, the direct contrary route to that of Arragon, and into all those dangers which he was to avoid, by marching by the head of the Tagus.—That, by letters from my lord Sunderland to Mr. Stanhope and lord Galway before the House, it appears, that these lords and persons differed in opinion from the rest. The subject-matter of their opinion being inserted, and it being taken notice of in such letters that these opinions in writing were received, and agreeable to the Lord Treasurer's thoughts; and Mr. Stanhope thanked and approved, for what he had offered in the queen's name.—That the earl of Peterborough was the more of that opinion, because the duke of Savoy and prince Eugene had declared their sentiments for a defensive war at that time in Spain, and had communicated their thoughts to Charles 3, upon that subject, to the certain knowledge of the earl of Peterborough, as he can make appear by authentic papers from the king of Spain. —That the earl sent a project of the duke of Savoy and prince Eugene, in concert with himself, to the queen, which her majesty had herself required, in which the said sentiments might appear, if the earl had the queen's leave to produce it.—That he went into Italy by the queen's commands and solicitations, with powers and authorities to negociate and treat with the duke of Savoy, though it is true he was found fault with so doing, as if he had not the queen's orders, (which yet he is ready to produce) and was recalled upon that pretence; that those orders were communicated to the king of Spain, lord Galway, Mr. Stanhope, the generals and ministers of the army, when at Guadalaxara, and he was by them unanimously solicited to go for Italy, in pursuance of those orders, and this agreed to in a Council of War. —That an objection raised, that he went alone, when ordered to go with troops, is of no weight, since, while he was preparing to execute those orders according to that letter, a strong squadron of the ships were commanded away to the West-Indies, under admirals appointed from England, and the particular ships mentioned for that service. That those orders were founded upon the supposition that Madrid and all Spain were in the hands of king Charles; that notwithstanding the total alteration of affairs, it was not in the power of the earl of Peterborough to prevent this fatal separation of the fleet, though he proposed, and solicited the other admirals to join with him in setting aside orders so prejudicial to the public, but could not prevail; when yet they allowed it made the fleet useless for that year where they were, and that the squadron under their precise and positive orders, could be of no service in the West Indies, nor even to go out there, to pursue the galleons, had they any intelligence of them —That the king of Spain, count Noyelles, Mr Stanhope, and Zinzerling, by the king's order, solicited the earl of Peterborough's return into Spain, and he was ordered by his catholic majesty to solicit, in the most pressing manner, that the earl of Galway might be recalled, and the Portuguese troops removed; that, accordingly, when he had sent the project upon Toulon, and against France, to the Secretary of State, he returned, and assisted at the several councils, which are now enquired into, and of which he has given a full and true account; and that he was the more pressing and endeavouring to prevent the rash measures which brought on the battle of Almanza, because the defensive in Spain, was agreed on by the duke of Savoy, and prince Eugene, in order to the design projected against Toulon; which design against Toulon was wholly altered, and made so impracticable, that the duke of Savoy, in the most public and solemn manner, declared his unwillingness to engage in it.—That then in those councils, when the earl Rivers was arrived, and landed at Alicant, farther debates arose what advices should be given him, and what proposed to him to execute with his troops: the project approved, and offered by my lord Galway and Mr. Stan-

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hope, was (to the best of his remembrance) that the troops should advance to some little town near the enemy, with assurance given my lord Rivers, that, in some few days, he should be sustained with a considerable body of horse, and some foot: that in this particular he refers himself to the earl Rivers, not having so perfect remembrance of it as the rest, but that he perfectly remembers that he opposed, with the utmost warmth, that any proposition should be made to the earl Rivers, it being certain (however dangerous and improper it was) that should such measures be pursued, that earl, being wholly ignorant of the situation of affairs, would not object against marching towards the enemy.—He perfectly remembers, that, at these councils, there was no account given, that could be depended upon, of the enemy's forces, who, at that time, were known to have a body of near 10,000 horse, and might soon be drawn together from their quarters; he knew that these troops could do no service, but must remain fatigued and exposed, without the forces promised in a few days to support them, which he was certain could not join them in a month, and thought himself obliged to give my lord Rivers and brigadier Gorges this account, that the earl Rivers might take the utmost cautions, and be upon his guard.—That according to the account he gave, the earl Rivers's forces were fatigued and exposed, for near a month, without any reinforcement from the earl of Galway; and, at last, orders were sent to make a retreat, which could not be executed without great hazard to the troops.—That upon the earl Rivers's arrival at Valencia, after such usage to himself and her majesty's troops, the earl of Peterborough met him just going to the king, and told him, why he was so positive in the information given him, that he should not be joined by any troops in a month's time; which was, because he knew that the new commissaries they had chosen for furnishing bread and other provisions for the troops, at a higher rate than they were furnished before, were not engaged by their contract to deliver the necessaries for their troops which were to join the earl Rivers, till a month after the time they were promised it; and the earl of Peterborough then desired the earl Rivers to ask the king, whether this matter of fact were not true? who, as he believes, might tell him the same thing.

Fifth Question.

"What the motives were of the king of Spain's leaving the army, when it was resolved to march towards Madrid and towards the enemy; and whether there were any orders pretended from England for those measures?

Answer.

"To the fifth Question the Earl is pleased to answer, That the king of Spain, when the troops were marching into Murcia, towards the enemy, assembled a Council to no other purpose, but to send, by the hands of his Secretary of State, a protest, with his reasons why he would not march with the army, but go to protect his subjects in Catalonia; the contents of which protest, the Earl very well remembers, having had a copy of it, by the king's order. And that he had instruments under the king's hand and seal, to shew how he was over-ruled and contradicted in the matters he thought fit to propose for the public service."

After the reading the earl of Peterborough's Recapitulation, the earl of Abingdon, chairman of the Committee, asked my lord Galway, Whether he had any thing to add to his Paper; to which his lordship answered, "That his memory suggested to him nothing more at that time, but that, if the House were pleased to allow him a copy of the earl of Peterborough's Paper, he might make some remarks upon it:" Which was granted.

The Chairman of the Committee asked afterwards the lord Tyrawley, Whether he was willing to communicate to the Lords, what he knew concerning the Council of War held in Valencia, the 15th of January, 1707. N. S. To which he answered, "That the reason why he was shy of speaking the Friday before, was, because he thought himself accused: and as his doubt still continued, and no body is obliged to accuse himself, he desired to know, whether he was accused or no? And if he was, he desired a Copy of the Accusation, that he might put in his Answer." Hereupon

The Duke of *Argyle* said, "That the lord Tyrawley's question was improper; that he was there in order to be examined by the Lords, and that he ought to answer to such questions, as should be put to him by the Chairman."—The lord Tyrawley insisting, that if he were accused, he ought to make his defence according to the forms of courts of judicature; the lord Peterborough said, "That he accused nobody; that the lord Tyrawley was a gallant man, but that, as it commonly happens, he might have been swayed by the opinion of his superiors;" whereupon the Chairman told him, he was not accused. Notwithstanding this, the lord Halifax said, "That the lord Tyrawley's question was not altogether ill-grounded. That any thing that tends to a censure, may be looked upon as an Accusation: and that the House of Peers, being the supreme court of judicature, they ought to observe the forms of justice, as well as inferior Courts."

A debate being like to ensue thereupon, the duke of Buckingham moved, "That the persons at the bar might withdraw;" which they did; and then his grace complained of the earl of Abingdon's saying to the lord Tyrawley, he was not accused.

The Lord *Halifax* said, "They were entered upon a large field, that this business had taken up much of their time three years before, to little purpose; that the Council in Valencia was a point of no weight or consideration; but that, if it was made to be the cause of ill measures, the lord Tyrawley was involved in the same Accusation with the lord Galway,"

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The Earl of *Abingdon* justified what he said, viz. That the lord Tyrawley was not accused; urging, it was impssible he should, because the House of Peers only judges, but never accuses: After which,

The Duke of *Argyle*, in answer to the lord Halifax, said, "That three years before, they enquired how Spain had been got, but now they enquired how it came to be lost; and that they were only enquiring, and not accusing." To this

The Duke of *Marlborough* replied, "That he could not perceive the tendency of such an enquiry; but, if they designed to censure persons, who had acted to the best of their understandings, they would have no body to serve them; and that it appeared by general Stanhope's letter to Mr. Secretary Hedges, that the Council held in Valencia was unanimous in four points, and did not debate the fifth, which they left to be determined by the subsequent Councils of War." Hereupon the earl of Peterborough desired, that Mr. Stanhope's Letter might be read, which was done accordingly. It bore date the same day the Council was held; and the most remarkable passage in it, is, "That he, the lord Galway, and the lord Tyrawley, had given their opinions for an offensive war, and that king Charles's ministers and the earl of Peterborough being of another opinion, he had protested against it, in her majesty's name; saying, "That the queen did not spend such vast sums, and send such numbers of forces, to garrison towns, but to make king Charles master of the Spanish Monarchy: But he apprehended he had committed a fault, in offering to protest in her majesty's name, against the opinion of a person of so superior a character as the earl of Peterborough."—After the reading of this Letter,

The Lord *North and Grey* said, "That the lords Galway and Tyrawley having been possessed with an opinion that they were accused, they ought to be let know they were not."

The Lord *Cowper* added, "That they ought to declare clearly and plainly, whether this was an Accusation, or no; that the reputation of men of honour was their liberty and property, that consequently, if this enquiry tended to censure the reputation of the lords Galway and Tyrawley, by what name soever it might be called, it was an Accusation; and they might ask to have it in writing, and ought to be allowed time to make good their answers; adding, he did not speak so much in favour of those two gentlemen, as for the honour of that illustrious assembly."—To this

The Duke of *Buckingham* replied, "That the lord Tyrawley's question was improper: That, if all who are summoned to the bar of the House, in order to be examined, should ask the same question, they could never proceed in any enquiry, or come to the knowledge of any thing: That the lord Tyrawley was as cautious and reserved, as if he knew he was really accused. That the Friday before, he remembered nothing; and now he wanted to know, whether he was accused, or no? That the lord Galway had acted fairly, like a man of honour: That the lord Tyrawley ought to do the same; but if he refused, they could not force him to it: That the reading of letters was irregular, before they had examined him; and that the chairman ought to ask him, peremptorily, whether he would tell the Lords what he knew about the Councils held at Valencia."—Hereupon

The Duke of *Marlborough* moved, That the lords Galway and Tyrawley, might be told, That they were not accused, and that the council in Valencia was only to give light into the subsequent operations of the Campaign. To which

The Earl of *Rochester* answered, That, though it had been alledged, that reputation was as dear to them as liberty and property, yet the Lords ought not to tie their hands, by telling them whether they are accused, or no; and therefore moved, that the chairman should ask the lord Tyrawley to answer, if he pleased. The lord Peterborough said, No man can be accused for giving his opinion in a council of war.

After which, the lord Galway and Tyrawley being called in again, the earl of Abingdon told the latter, That the Lords desired to be informed of what he knew about the council of war which was held in Valencia. Thereupon the lord Tyrawley said, That being apprehensive he might be accused, he thought he ought to be upon his guard, but as he hoped that illustrious assembly would not take advantage of any thing he might say, he would frankly acquaint them with all he knew about the Council of War: That it is a hard matter to charge one's memory with things so far distant; but that he remembered, in general, that several schemes were proposed for the operations of the ensuing campaign: That an offensive war was resolved upon by a majority of voices: That besides the lord Galway, Mr. Stanhope, and himself, all the Portuguese, viz. the marquis das Minas, count d'Oropeza, the conde de Corsana, and the Portuguese ambassador, were of that opinion: That the operations of the campaign were left to the determination of subsequent councils; That as to the battle of Almanza, it was unanimously resolved upon, not one general opposing it; and that Monsieur Freishman, who commanded the Dutch, and was very jealous of any thing that regarded the service of his masters, did not speak one word against it.

The earl of Nottingham having interrupted the lord Tyrawley, telling him, He was not examined about the battle of Almanza; The duke of Buckingham said, No lord ought to speak to the lord Tyrawley but the chairman. And the lord Halifax added. "That what he had said was very proper, the battle of Almanza being a consequence, of the Council of War held at Valencia." On the other hand the earl of Peterborough saying, "That what the lord Tyrawley had said was to no purpose." The duke of Marlborough saying "He had

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answered fully to the question that was put to him."

The earl of Godolphin having desired that the lord Tyrawley might go on, he was called in again; and the chairman telling him he might proceed, he answered, "He had no more to say." However the lord Cowper desiring he should be asked, Whether the march to Madrid was agreed in that Council of War? And the earl of Poulett, Whether in the same Council, an offensive war was resolved upon? The chairman put those two questions to my lord Tyrawley, who answered as before; "That it was resolved to march to Madrid, but that the further operations of the campaign were reserved to the determination of subsequent councils, after they had beaten the enemy." The earl of Peterborough desiring to know by whom those resolutions were taken, the lord Tyrawley answered "By the majority of several Councils of War, which were held twice a week; and that, as far as he could remember, the king did not declare his opinion."

The earl of Peterborough having afterwards desired leave to ask the earl of Galway a question, about his negotiations in Italy; the lord Poulett said, no questions were then to be put but in relation to the Council of War held in Valencia. The earl of Abingdon having told the lords Galway and Tyrawley that they might withdraw, they withdrew accordingly; after which the lord Cowper said. "That all he could collect from the lord Tyrawley's examination, was, That the same persons who were for an offensive war, in the Council held at Valencia, were very unanimous in the subsequent Councils, and concurred in the execution of the operations agreed on."

After this the chairman ordered the clerk to read several Papers that lay upon the table, particularly the following Letter from Mr. Stanhope to Mr. Secretary Hedges;

"Sir; Valencia, Jan. 15, N. S. 1707.

"Since my last, of the 25th of December, we have received the ill news of the king of Portugal's death, and the loss of Alcantara. The same ships brought us letters from my lord Rivers and sir Cloudesly Shovel, acquainting us, they had taken the resolution of bringing the land forces to this kingdom. Upon these advices, and the arrival of the earl of Peterborough from Italy, several conferences have been held on the operations of the new campaign. Inclosed I send you the Opinions given by my lord Galway, sir Charles Hara, and myself, in writing, as the king had desired. What is mentioned therein of taking Origuela and Murcia, as soon as the forces shall land, is agreed unanimously; as likewise to solicit either succours, or a powerful diversion from Italy; and also to engage, if possible, a squadron to stay in these seas. I am sorry it is doubtful whether this latter can be compassed, sir Cloudesly Shovel having writ word, that the ships will return soon after the landing of the troops; and if the succours the French give out they are to have, (of which my lord Peterborough will inform you more particularly) are really marching, a squadron would be necessary to hinder them from hurting us in Catalonia; which would otherwise require more troops for the defence of it than we can spare, and leave ourselves a sufficient force to go to Madrid. The main part of our votes, which relate to the design of the campaign, is not yet determined, there being many opinions, that we should not think of Madrid, but act defensively, and in several bodies. I have in most of my letters, since I came hither, either to my Lord Treasurer, or you, expressed my apprehension this would be aimed at; and therefore hope we shall soon be informed from you of her majesty's pleasure in this particular. I have, perhaps, been guilty of a fault in supporting my opinion, which is the same with my lord Galway's, too warmly at some of these conferences, having said, that her majesty did not spend such vast sums, and send such numbers of forces to garrison towns in Catalonia and Valencia, but to make king Charles master of the Spanish monarchy; and if it was insisted upon, to divide the forces, and put ourselves on the defensive, I should, in her majesty's name, protest against such measures. The fault I apprehend myself to have committed, was using the expression of protesting in her majesty's name, in presence of my lord Peterborough, who has characters from her majesty so much superior to mine, and from whom it was my fortune to differ in opinion, on this occasion. His lordship will have communicated to you, the projects he has concerted with the duke of Savoy and prince Eugene, for the execution of which a strong squadron is necessary. If the assistance of our fleet can engage those princes to march by land to Toulon, it may, on that condition, be worth our while to spare some foot from hence, for the execution of such a design, as destroying their naval strength, though we should be reduced to act defensively here; for, let us take never so good resolutions, I cannot help repeating my apprehensions to you, that we shall do no great matters while we have so many generals so little disposed to agree. Experience has so fully convinced me of my disability to procure that good understanding amongst ourselves, which is necessary for the queen's service, that I do, with the greatest earnestness, renew my application to you, that I may be recalled from a station, in which I am perfectly useless to her majesty, and am ruining myself, being forced to live at much larger expence than my allowance will bear. Your favour in this matter will be most thankfully acknowledged by him, who is, with the greatest respect, Your, &c.

"JAMES STANHOPE."

Then the clerk read also a letter from sir Charles Hara, (now lord Tyrawley) to Mr. Secretary Hedges, of the same date, viz. January 15, 1706-7. The title of a letter from the earl of Sunderland, to general Stanhope, was also read; but his lordship not being then in the House, the reading of that letter was postponed,

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and the Opinion which Mr. Stanhope gave, in French, in the Council of War held in Valencia for an offensive war.

Next to this the Clerk read the Opinion which the earl of Peterborough delivered in writing at the said Council, being as follows:

"An offensive war is of shew, and reputation to the generals and troops, but the defensive is often of most utility to the public.—Our circumstances require vigorous efforts in Italy or Spain. In the last, the defensive secures us the crown of Arragon, but the troops in Italy can only give the mortal blow, that is, enter France. Neither can it be doubted, if the French desist from their hopes in Italy, but that the great force in that country will be usefully employed by the duke of Savoy and prince Eugene.—No positive opinions can be given, without knowing the condition of the fleet. Without the assistance of the sea, the best dispositions in Italy are useless. If that were wanting, all must be hazarded in Spain, the war there being of an inconceivable expence to the allies, but the difficulties of subsisting armies in Castile are sufficiently apparent by the last campaign: and the dangers are evident of putting the whole upon the risque of passing to Madrid, before an army so superior in cavalry.——The Tagus must likewise be passed before the enemy, (if marching by Murcia) without pontoons, or the necessary preparations for such an attempt. The precipices of that river are natural fortifications: if there are plains near Aranjues, it is almost equally impossible to pass them before an army in battalia, without a great superiority in artillery; and nothing is more easy to a body of horse so numerous, than to cut off the necessary provisions, in a country where they are so scarce.—If the troops advance into Castile, towards Madrid, without taking the necessary precautions for the defence of Catalonia, either Madrid must fall into our power, or all is lost. It is to be doubted whether the possession of Madrid (without the defeat of the enemy's army) be decisive; but the loss of Catalonia is certain, if the places there are not better fortified and provided, and if forces are not sent into that province or those parts of Arragon, near that frontier; which may serve at the same time for the defence of the fortified places of Catalonia, and towards preventing the succours from the side of Navarre.—If we hope for a maritime force betimes in these seas, which may be superior to the enemy, there does not appear the least necessity for rash measures; and the least disgrace, or great fatigues alone, may give her troops that inclination to desert, which the enemy will not fail to improve, when in a proper situation.—Above all things the defence of Catalonia, and what we have, is necessary. Our intelligences assure us, that great numbers of troops assemble in Roussillon, and that great magazines are forming there for foot and horse, and all warlike necessaries. But to conclude, what better opinions can be offered than those of the duke of Savoy and the prince Eugene? who have doubtless communicated them to the emperor, the queen, and his catholic majesty, where that duke has ministers."

The earl of Peterborough having desired that some of his own letters might also be read, the clerk begun with one from his lordship to the duke of Marlborough, (whom the earl said he knew was not prejudiced against him) wherein amongst other particulars, his lordship said, 'He had overcome all his enemies, but lies, and these he had papers enough with him to defeat.' Another from the earl of Peterborough to the Lord Treasurer, (or earl of Godolphin) was read likewise, containing a justification of his lordship's conduct; exposing the rash and absurd measures that had been pursued; and acquainting the Treasurer, that his (the earl of Peterborough's) projects were approved by the duke of Savoy, prince Eugene, and M. de Belcastel, though a friend to the lord Galway; adding, that whilst he had the honour to command in Spain, not one party of 20 men were beaten, nor a vessel lost. After this the clerk read the earl of Sunderland's Letter to Mr. Stanhope, of the 14th of Feb. 1706-7, as also an extract of king Charles's Orders to my lord Peterborough, about an attempt upon the islands of Majorca and Minorca. Upon which the earl of Poulett said, 'That the earl of Peterborough had given a fair and just Account.'

To corroborate what the earl of Peterborough had said, Dr. Friend was called in: whereupon the duke of Devonshire moved, That he might be sworn. This occasioned a debate that lasted near an hour, after which it was agreed that he should be sworn; which being done accordingly, he vouched for the authenticness of the Papers inserted in his Account of the earl of Peterborough's Conduct in Spain; the copies whereof, he said, he had received, either from the earl of Peterborough, or from his lordship's secretary. Then the earl of Abingdon read the question that had been given in by the earl of Ferrers, viz. "Resolved, That the earl of Peterborough has given a very faithful, just and honourable Account of the Councils of War in Valencia."

The Earl of Peterborough's Account voted Just, &c.] This question occasioned a debate that lasted above an hour, in which the most remarkable passage was this; The bishop of Sarum having excepted against the word 'just,' because the earl of Galway had declared he had some remarks to make on the earl of Peterborough's Recapitulation, but that he readily agreed to the word 'honourable.' The duke of Argyle took him up, saying, 'He knew no difference between those two expressions; for all that is honourable must be just, and all that is just is honourable.' At last, the question being put, about nine o'clock at night, the Lords divided, and tellers being appointed, 59 were for the affirmative, and 45 only for the nega-

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tive; and the House being resumed, the Resolution of the Committee was reported, and agreed to.

It was afterwards moved to adjourn to the Thursday following; but before it passed into a Resolution, the earl of Paulett gave in the following Question to be debated in the next committee of the whole House; "That the earl of Galway, lord Tyrawley, and general Stanhope, insisting at a conference held at Valencia, some time in January, 1706-7, in the presence of the king of Spain, and the queen's name being used in maintenance of their opinion for an offensive war, contrary to the king of Spain's opinion, and that of all the general officers and public ministers, except the marquis das Minas; and the opinion of the earl of Galway, lord Tyrawley, and general Stanhope being pursued in the operations of the following campaign, was the unhappy occasion of the battle of Almanza, and one cause of our misfortunes in Spain, and of the disappointments of the duke of Savoy's expedition before Toulon, concerted with her majesty."—The earl of Paulett desiring that this question should be entered in the Book, the same was opposed by the earl of Wharton and the lord Halifax: but it was, after a small debate, agreed, That the same should be entered: after which the House adjourned to the Thursday following.

Second Debate in the House of Lords on the War in Spain.] Accordingly, on the 11th of January, the Peers being set, three Letters from the earl of Sunderland were delivered in, viz. one to general Stanhope, of the 23rd of December, 1706; another to the earl of Galway, of the same date; and the third to the said earl, of the 27th of the same month. The order of the day being read, an officer was sent to know whether the earl of Galway attended, and the House being informed he did not,

The Earl of *Paulett* made a long speech, wherein he represented, "That the nation having, for many years, been engaged in an expensive war, it was necessary to give the people the satisfaction to let them know how their money had been spent, and who deserved thanks, and who to be blamed; that it appeared, the service of Spain had been very much neglected: that many officers upon that establishment looked on their employments as sinecures, being favourites of the party; and that the council held in Valencia, being the spring to all our misfortunes, the Lords ought to censure those that influenced it; concluding, that the motion he made on the Tuesday before might be read."

Hereupon the duke of Bedford delivered in a Petition of the earl of Galway, which was read, importing, that being informed that matters which very much concerned him, were inserted in the Journals of the House, he prayed their lordships to give him time to put in his Answer, before they came to a determination.—The marquis of Dorchester delivered also a Petition of the lord Tyrawly, to the same effect; which being read likewise, the earl of Orford moved for adjourning, and appointing a day to consider of these Petitions. To which

The Lord *North and Grey* said, "The lords Galway and Tyrawly ought to have put in their Answers to the earl of Peterborough's paper, instead of presenting Petitions for time, which looked like a delay."

The Duke of *Buckingham* said, on the same side, "That it must be a mistake; that the Petitioners might think themselves accused, which could not be; for the Peers never accuse, but only give orders to the Attorney General to prosecute: That although every body may have access to their Journals, because they are a court of record, yet no inquest can take notice of any thing that passes, or is depending in the House; that at this rate, any body might put a stop to their proceedings; that he did not, however, blame men that were under the apprehensions of being accused, for presenting such Petitions; but that they ought to take no notice of them, and proceed according to the order of the day, to the consideration of the state of the nation, in relation to the affairs of Spain." To this

The Duke of *Devonshire* answered, "That as a censure might ensue upon a motion made the Tuesday before, the lords Galway and Tyrawly had reason to petition for time to make their defence."

The Earl of *Rochester* replied, "That he never heard of a Petition of that nature: that the Petitioners desired, in effect, to be heard upon the debate of the Lords, which was improper: that nobody yet knew or could tell, what the question was; but that after it was known, it might then be proper for them to put in their Petitions; concluding, they ought not now to be received."

The Lord *Somers* said, "That the Petitions were neither improper, nor given in at any improper time; that it would be too late for the Petitioners to apply to the Lords, after they were come to a Resolution; that he hoped it would never be found in the Book of that House, that when the Lords were going to proceed to a censure, they refused to hear those that were to be affected by it; that the lords Galway and Tyrawly had a right to be heard, and clear the matters of facts as subjects of Great Britain; that the Lords ought besides to be cautious how they proceeded in enquiries of things done before the Act of Oblivion and Indemnity: concluding, it was but a natural justice, that men in danger of being censured, should have time to justify themselves."

The Duke of *Argyle* answered, "That he did not know what services it would do the petitioning lords to have time, and to tell the House that they differed from the House; that it had already been put to them, whether they had any thing to say to that point, and that two days had been allowed them to answer the earl of Peterborough's Recapitulation; that as to the Act of Indemnity, his grace did not care how little use was made of it; that the said In-

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demnity hinders not enquiries; that the people of Great Britain ought to know to whom their misfortunes are owing: but that, however, he desired nobody should be punished."

The Lord *Cowper* said, "That the debate about the Affairs of Spain was adjourned to that day; and therefore it was improper to take notice of the earl of Paulett's motion in the House, but that it might be considered in the Committee; that as to the two Petitioners, it was reasonable and proper to grant them time to put in their Answers, because the question tended to censure them; which they did not know before, when they were only examined: And that in things essential to justice, the ordinary forms of courts of judicature ought to be observed."

The Earl of *Nottingham* answered, "That they could never be too tender of the reputation of men of honour; but that in his opinion, the Petitions ought not to be granted; because this was no proper time to deliver them, and because the Petitions themselves were improper; that the Act of Indemnity ought to be sacred, but not pressed too far; that the Petitioners had already been heard, and allowed time to add any thing to their former declarations; that now the Lords were not enquiring into facts, but forming their judgments upon them; and that the admitting the lords Galway and Tyrawly to take notice of what passed in the House, would be admitting them to a coordination with the Lords."

The Earl of *Wharton* replied, "That a censure is a punishment; that to punish men without giving them an opportunity to make their defence, is equal to a banishment; that he hoped the subjects of England were not yet reduced to that; that this was the only time the Petitioners could have to make this application to the House; that the least thing the Lords could do, was to hear them before condemnation, since any other criminals might claim that privilege: concluding, he did not speak for the sake of those two lords, but for the honour and reputation of the House."

The Earl of *Nottingham* answered, "He did not say they could never be heard, for they might be heard, if the House should order a prosecution, but only that they could not be heard on this occasion. That they might be as innocent as any of the Lords, because they might have given their opinion according to the best of their understandings, or might have been overruled: Which might be afterwards enquired into."

The Duke of *Buckingham*, who spoke on the same side, said, "That he had a great respect for those two noble lords who petitioned; and was as tender of the honour and reputation of the House, as any member: That therefore he was afraid of making precedents and altering parliamentary rules: That according to the forms of inferior courts, no man has a right to be heard, or to stop proceedings on account of his reputation, as on account of his property; that he was apt to believe, that some persons who did not like this enquiry, had put those two lords upon petitioning, to gain time; but though he would not have the Petitions granted, yet he would move, that they might be called in and heard."

The Earl of *Paulett* said, "That they had already been heard, and had declared they had no more to say: so that the design of these petitions was only to delay."

The Duke of *Shrewsbury* said, "That if they were ready to be heard, he consented they should, provided they delivered nothing in writing, which might occasion delays."

The Earl of *Godolphin*, in answer to what had been urged by the earl of Paulett, said, "It was true, they had been heard before; but that there was new matter, and an imputation, wherefore it would be hard upon them not to be heard."

The Earl of *Ferrers* answered, "That the question contained only a proposition to censure a council; that their lordships were yet come to no Resolution upon it; and, as a Petition to a debate of the House was never offered before, he thought it unreasonable to grant these. That, as they must not judge by success, so the declaring that the lords Galway and Tyrawley had given an ill council, was no censure."

The Lord *Halifax* said, "That out of an affectation of avoiding delays, and of not going fast enough, they went so fast, that they must come back: that the petitioners had, indeed, been examined, but were not heard to the question proposed by the earl of Peterborough; and that the lord Tyrawley was even interrupted when he began to speak of the battle of Almanza. Pray, my lords," added he, "proceed according to the rules of justice. When sir George Rooke was called in question, he was heard for three days together. What, will you not hear these two Lords, before you pass a Resolution that touches their reputation? For my part, when I hear these arguments, I could stop my hearing."

The Earl of *Paulett* saying thereupon, "That if they were ready to be heard, he readily agreed they should:"

The Lord *Halifax* insisted, "That their demand ought to be granted;" urging besides, "That the very Paper upon which the whole debate turned, was not yet read."

The Earl of *Marr* answered, "He did not wonder some persons endeavoured to shuffle and prolong the debate; but if they granted these Petitions, they might afterwards be desired to postpone this enquiry, till Mr. Stanhope could be heard."

The Duke of *Argyle* added, "That he had, himself, asked the petitioners, whether it had been resolved to act offensively, to which they had given their answers in the affirmative; which was the material point in question."

The Duke of *Devonshire* insisted, "That, as the result of these debates might be put in a Representation to the queen, the petitioners ought to have an opportunity to be heard."

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The Duke of *Buckingham* answered, "That if they debated that matter any longer, it would be the same as if they granted their petitions."

The Lord *Guernsey*, speaking on the same side, said, "That, if the question for rejecting the Petition, was put, and carried, they might then be heard to matter of fact; but, as to matter of opinion, they could not be heard; and so concluded, that the question, to reject the Petition, be put in the House, and the lord Paulett's question afterwards debated in the committee."

The Earl of *Scarborough* said, "That, if the petitioners were to be heard again, he wished they might be upon oath."

The Earl of *Paulett* added, "He hoped they should hear no more of the Act of Indemnity in this debate."

The Duke of *Leeds* said, "He thought the Petitions irregular, however, he moved that they might be laid on the table, and taken no notice of." Which motion was backed by the lord North and Grey. But

The Duke of *Buckingham* insisted, "That the petitions being irregular, the question for rejecting them ought to be put; and if carried, such lords as pleased might enter their Protests:" upon which

The Duke of *Leeds* said, "He should be sorry to see protestations made on that occasion."

The Lord Keeper having, at last, put the question, Whether the Petitions should be rejected? It was carried in the affirmative, by a majority of 57 voices, against 46, that were for the negative. Hereupon the earl of Abingdon said, "He supposed, any body that presented petitions, attended to know whether they were granted, or rejected:" and the duke of Shrewsbury moving, "That they should be called in," the duke of Argyle said, "He took it for granted that the petitioners were out of the way, and not to be found; and therefore moved, that the committee might proceed.' An officer having informed the Lords, that the petitioners were not at the door; the earl of Paulett said, "All this looked like a delay." And the earl of Ferrers moving, that a message might be sent to them, the duke of Buckingham moved, for adjourning the House, during pleasure, in order to consider the earl of Paulett's question in a Committee of the whole House, into which the lords went immediately, and of which the earl of Abingdon was chosen chairman.

The Earl of *Peterborough* opened the debate with saying, "That, having the queen's orders to be gone, he hoped the lords would give him an opportunity to clear some heads that had been laid against him by the Secretary of State." But the duke of Buckingham said, the question ought to be read, in the first place: Whereupon the earl of Abingdon read the earl of Paulett's motion before-mentioned. Then the earl of Peterborough acquainted the Lords, "That his going out of Spain for Italy, was in order to concert measures for the siege of Toulon, according to his Instructions: being empowered to treat and negotiate with the duke of Savoy, particularly about the siege; of which he had given an Account in writing. That he had several conferences with the duke of Savoy and prince Eugene, in his royal highness's closet, the result of which he sent to the Court of England, and to the king of Spain. That he had afterwards several conferences with my lord Galway and Mr. Stanhope, to concert further measures for the carrying on the projects made in Italy: but though he had acted according to his Instructions, he was, in a Letter from the earl of Sunderland, dated the 28th Sept. 1706, O.S. recalled, for negotiating matters of so high a nature, without the queen's authority, which might be prejudicial to her majesty's service."—Hereupon the earl of Rochester said, "That the earl of Peterborough ought to apply himself to the matter in question;" and moved, That the said question might be read again; which the chairman did: after which the earl of Peterborough said, "He apprehended their lordships would enquire into the disappointment before Toulon, in order to which he thought it very proper to acquaint them, that 5,000 men, which he demanded for the reduction of that place, were denied him, to be employed about imaginary conquests. And, that he received the thanks of king Charles, for the projects he had concerted in Italy; but a public minister desired, he might not be trusted." The duke of Argyle desiring that the earl of Peterborough's Papers might be read; that, in particular, which shewed, that the duke of Savoy insisted, that there might be a defensive campaign in Spain; while the earl of Peterborough was looking for that paragraph, in his own French Letter to sir Charles Hedges, dated Sept. 10th, 1706, the earl of Godolphin moved, "That the whole Letter might be read:" whereupon the Letter was delivered to the clerk; but, the earl of Peterborough taking it from him, read it himself; and the most remarkable expressions in it, relating to the question, were these: 'La 'prise de Toulon me paroit praticable. On 'demande 5,000 hommes des troupes d'Es-'pagne;' that is, 'The taking Toulon appears practicable to me; 5,000 men of the troops in Spain are demanded for that purpose.'

The Earl of *Godolphin* insisted, "That if any stress was to be laid upon this letter, the same might be translated and read by the clerk." Notwithstanding which, the earl of Peterborough continued reading; after which

The Lord *Cowper* backed the earl of Godolphin's motion, saying, 'He could not understand the letter as the earl of Peterborough read it; and how could their lordships proceed to a censure, without having a material paper in the language of the country?" To this

The Earl of *Peterborough* said, "That it being thought fit not to entrust any secretary with his project, he wrote that letter himself to Mr. Secretary Hedges; and that he could not write

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it in any other language, to be understood by the duke of Savoy, and prince Eugene, who kept both a copy of it, as well as himself: but if their lordships desired to have it translated, he moved they might adjourn, for he was no secretary to translate it himself."

The earl of Abingdon owned, the letter was not read regularly: but the earl of Paulett waving that matter, said, "The French could not have relieved Toulon, if the war in Spain had been defensive." And the duke of Argyle added, "That the stress of the question was, whether the duke of Savoy insisted upon a defensive war in Spain." The earl of Peterborough averring, that he insisted so firmly upon it that he desired to have 5,000 men out of Spain:

The Duke of *Marlborough* acquainted the lords, "That the project of an attempt upon Toulon was first proposed to the duke of Savoy, by Mr. Hill, in 1703, and afterwards negotiated there by his grace himself with his royal highness's ministers, count Brianson, and count Maffey; that 50,000*l.* were, at first, offered to the duke of Savoy, for that purpose; but it was, at last, agreed, that he should have 100,000*l.* That the year before the execution of this design, the duke of Savoy earnestly desired, that it might be kept very secret; so that it was very improbable he should speak of it to any body, and desire 5,000 men out of Spain for that purpose:" concluding, "That the attempt upon Toulon did not miscarry for want of men, since there were near 17,000 left behind in Italy; but for want of time, and other accidents.' Notwithstanding this,

The Earl of *Peterborough* affirmed, "That, according to his instructions, he had concerted with the duke of Savoy the attempt upon Toulon." Whereupon

The Earl of *Paulett* said, "That in such a case, 5,000 men out of Spain might have made a strong diversion, and contributed to the reduction of that place." After this, the clerk read a Letter from the lord Godolphin to the lord Peterborough, dated Feb. 7th, 1708-9, importing, in substance, "That care had been taken of all his Bills; that they were all (upon which the earl of Peterborough cried, "protested!") satisfied, that the war in Catalonia ought to be offensive; and that this was the particular desire of prince Eugene, which ought to be complied with."

The Earl of Peterborough having often mentioned his Instructions for treating about the siege of Toulon, the lord North and Grey moved that those Instructions might be produced, but the earl of Rochester alledging, this could not be done without the queen's leave, the lord North and Grey replied, "They might present an Address to the queen for that purpose." This being waved by the duke of Buckingham, the lord North and Grey acquiesced: though it is remarkable, that the earl of Peterborough said, "That Mr. Secretary Hedges might be ordered to attend, and be examined about that matter:" and thereupon the lord Halifax desired, that the lord Peterborough's Letter to Mr. Secretary Hedges might be left upon the table: adding, "That since the duke of Savoy was for an offensive war in 1706, he wondered how it could be a crime in 1707." To this

The Earl of *Nottingham* answered, "That the earl of Peterborough's letter ought not to be left on the table, unless he pleased. That no inference could be more unnatural, than to say that because the duke of Savoy was for an offensive war in 1706, he must be of the same opinion in 1707. That what the duke of Marlborough had said about the overture made to the duke of Savoy, for an attempt upon Toulon in 1703, was very true; he (the said earl of Nottingham) having writ himself to Mr. Hill about it; that it appeared by general Stanhope's letter, that he was for an offensive war, unless some attempt upon France made it necessary to be on the defensive: which implied, that he knew the design upon Toulon; and that the duke of Savoy wanted troops, appeared by his waiting for the German recruits." The lord Cowper insisting upon the necessity of having the earl of Peterborough's original Instructions, the chairman put him in mind of what already had been suggested, "That there might be some secrets in them, not proper to be made public:" to which the lord Cowper replied, "That the argument upon a probability, when there might be a certainty, shewed the necessity of calling, at least, for such part of the said Instructions as related to this matter;" urging, "That Toulon might be mentioned in them; but it was material to know in what manner it was mentioned." In answer to this the duke of Argyle said, "That even supposing no mention was made of Toulon in the earl of Peterborough's Instructions, yet it appeared very plainly, that he had concerted that project, from his letter to Mr. Secretary Hedges, from Mr. Stanhope's letter, and from the earl of Galway's confession." The earl of Scarsdale complaining of the delays, and of some lords insisting on the same thing; the lord Halifax answered, "He designed to make all delay necessary to get a right information:" urging, "That the earl of Peterborough had desired that Secretary Hedges be called and examined." The earl of Peterborough explained what he had said about Sir Charles Hedges, averring he only mentioned him about the letter his lordship wrote to him in French. But nevertheless, the lord Halifax insisted on the necessity of having the Earl's Instructions laid before them: alledging, "That since new papers were daily produced towards this enquiry, why not these Instructions, which were as material as any of the rest?" The earl of Rochester waved this objection, saying, "There was no necessity to have those Instructions, since they would be of no use, for it appeared already very plainly that the design upon Toulon was known." The duke of Buckingham, the earl of Nottingham, and the earl of Isla spoke on the same side; and at last between eight and nine in the evening the earl of Paulett's

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main question, about the earl of Galway lord Tyrawley, and Mr. Stanhope, being put, it was carried in the affirmative by a majority of 64 voices against 43; after which the Lords adjourned to the next day.

Third Debate in the House of Lords on the War in Spain.] On Friday, the 12th of January, the Lords being set, a List of the generals and officers on the establishment of Spain, which, by their lordships' order, had been laid before them, was found fault with, because the lieutenants and ensigns were not mentioned in it, and another List was ordered to be laid before the House. Then several Papers were read, particularly the following Letter from the earl of Sunderland to my lord Galway:

"My lord; This is to acknowledge the receipt of your lordship's letter by Mr. Stanhope from Valencia, of October the 29th, N. S. together with a copy of your letter to the lord Rivers, of the same date. And to acquaint you, that her majesty does approve of the resolution of my lord Rivers landing his forces in Valencia, and that she has sent him directions to go forthwith, in compliance with the desires of the king of Spain, and your lordship, notwithstanding any orders he may receive from thence to the contrary, (such having been sent some time.) I am commanded also, by her majesty, to acquaint your lordships, how concerned she is at the uneasiness you are under in the service, which makes you desire so much to retire; which request her majesty would not deny, but that she is of opinion, that, besides what relates to the command of her own troops, and an influence that is necessary to be had upon the king of Spain, there is nobody but your lordship that can possibly, in any sort, manage the Portuguese; so that, if you shall retire, that alliance will be quite useless, and consequently the whole affair of Spain irretrievable. I am confident, when you reflect upon this, you have her majesty's service, and the common cause so much at heart, that you will have patience, at least one campaign more; and your lordship may depend upon it, that there is nothing in the queen's power to do, to make you as easy as possible, and to remove the difficulties you have hitherto struggled with, that will not be done. You will see by her majesty's letter to the king of Spain, how much she takes this to heart, and how strongly she insists upon his having an entire confidence in your councils and advice.—I will not say any more upon this subject; you will have it so much more strongly represented to you by my Lord Treasurer in his letter, and by M. de Montandre, when you see him. I must also acquaint you, that the queen has ordered my lord Peterborough's commission of ambassador to be recalled, which, I hope, will contribute to make all that matter more easy. Since his majesty is willing to consent that the troops with the lord Rivers should join the king of Spain and the troops in Valencia, it is expected they should be kept all together in one corps, and under one general, that they may march strait to Madrid, without dividing themselves, or amusing themselves in taking inconsiderable places, and such little projects; the doing of which before, was one great reason that this last campaign you was not joined by any body of troops sufficient to keep you in possession of Madrid. This makes it yet more necessary for your lordship to stay: I am sure nobody but yourself will have influence, or credit enough to keep them together; and to enable you the better to do this, the most effectual measures will be taken to persuade the Portuguese to make the diversion they have promised by the way of Toledo; and in order to it, they will be assured, that the troops from Ireland that were to follow the lord Rivers, shall be sent as soon as possible to join them, and enter Spain that way. I must also acquaint you, that such measures are taking with the duke of Savoy, for the next year's campaign, as will effectually prevent the French sending any considerable force more into Spain. I send you here enclosed a copy of M. Cavalier's Letter to the queen; if you think what he proposes practicable, and that the circumstances of affairs do allow it, her majesty thinks it would be of great advantage to the common cause; but that must be left to your judgment. I gave you an account in my last, that all the cloathing was gone from hence, except that of eight battalions. As for the six regiments, whose officers are to be sent home to raise their men, it is her majesty's pleasure, that the cloathing of the said regiments be sent back, and that your lordship would order an account of the off-reckonings to be sent hither. I am, &c. SUNDERLAND."

The clerk having done reading, the earl of Scarsdale proposed the following question: "That it appears by the earl of Sunderland's Letter to Mr. Stanhope, that the design of an offensive War in Spain, was approved and directed by the Cabinet Council, notwithstanding the opinion of general Stanhope, in case of an attempt upon France, which they knew was then concerted with the duke of Savoy; which contributed to our misfortunes in Spain, and to the disappointment before Toulon."

Resolution thereon.] After a small debate, it was resolved to present an humble Address to the queen, "That she would be pleased to give leave to any Lord, or other, of her cabinet-council, to communicate to the House, any Paper or Letter relating to the affairs of Spain." This Address, by their lordships' order, was immediately carried up to the queen at St. James's, by the lords of the white-staves, viz. the dukes of Buckingham and Shrewsbury; Who being returned, and the House (that had adjourned during pleasure) resumed, as soon as the queen, who designed to hear the debate incognito, was come to the House, the duke of Buckingham reported, "That her majesty had graciously been pleased to grant the desire of the Lords."

Earl of Scarsdale's Second Question. The

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Lords being gone into a committee of the whole House, and the earl of Abingdon still in the chair, the earl of Scarsdale delivered the following Question, "That it appears by the earl of Sunderland's Letter, that the carrying on the war offensively in Spain, was approved and directed by the ministers, notwithstanding the design of attempting Toulon, which the ministers knew at that time was concerted with the duke of Savoy, and therefore are justly to be blamed for contributing to all our misfortunes in Spain, and to the disappointment of the expedition against Toulon."

Debate thereon.] The Lord in the Chair having read this Question,

The Duke of *Devonshire* excepted against the alteration that had been made in it, particularly against changing the word of 'Cabinet 'Council' which was in the question first proposed by the earl of Scarsdale, into that of 'Ministers.' To which

The Lord *Ferrers* answered, "That the earl of Scarsdale was at liberty to make what alterations he thought fit in the question, this being a new committee:" and

The Earl of *Scarsdale* added, "He thought fit to alter the question, because the word 'Ministers' is better known than that of a Cabinet Council." But

The Earl of *Wharton* insisted, "That the committee was, in effect, the same, as when the first question was proposed, and as they were adjourned to consider it, no alteration of a question that lay already before them, ought to be admitted."

This objection, which seemed to carry a great deal of weight, was, however, removed by the earl of Abingdon, who said, "This was the same committee; for the House was resumed, and then adjourned during pleasure, before he could get directions to report." And the earl of Paulett having moved the debating of the second question, the duke of Beaufort said, "He wondered any Lord in the ministry should approve and direct an offensive war in Spain, at that juncture; and in particular named the earl of Sunderland." Hereupon

The Lord *Cowper*, in answer to what had been alledged by the earl of Scarsdale, to justify the alterations made by his lordship in the question, said, "That in his opinion the word 'Minister' or 'Ministry,' would run into the same exception with 'Cabinet Council:' that they were both terms of an uncertain signification, that there was besides in the question the word Ministers in the plural, which implied many: And therefore he moved, That the earl of Sunderland's Letter might be read, that it might appear; whether one minister only, or more, approved and directed an offensive war." There being several Letters of the earl of Sunderland's lying on the table, the chairman of the committee desired to know, which of them their lordships would have read? To which it was answered, "That of Feb. 14th, 1706-7. O. S. in answer to Mr. Stanhope's Letter of the 15th Jan., N. S." Upon which the clerk was directed to read that letter, importing in substance, "That he was sorry they three only (meaning the lords Galway and Tyrawley, and Mr. Stanhope) were of that opinion; that nothing but interest could incline others to the contrary; that the dividing the Army would be the ruin of all: that the queen entirely approved what he (Mr. Stanhope) had done in the Council of War, as he would see more at large in the inclosed from my Lord Treasurer. That this was so much the queen's opinion, that she had written in the most pressing terms to king Charles about it. That, as for the earl of Peterborough's projects in Italy, the less attention Mr. Stanhope gave to them the better. That he sent him a Letter for the earl Rivers, which he desired Mr. Stanhope to deliver to him, if he took upon him the command of the army, by the lord Galway's giving it up. Which, however, the earl of Sunderland hoped, he would not do: In which last case Mr. Stanhope was desired to burn that letter; concluding, that the Lord Treasurer had settled the remittances for the army, &c." After the reading of this letter, the lord Cowper said, "He could not find a connection between the premises (viz. the said Letter) and the inference in the question; And therefore if it should pass into a resolution, he would enter his protest."

The Earl of *Rochester* replied, with some vehemence, "That after the Message that had been sent to the queen, and her majesty's gracious Answer, he did not expect to hear of such an objection; as that there was no connection between the premises and the inference; that he knew very well the meaning of that objection; that for several years past they had been told, that the queen was to answer for every thing; but he hoped that time was over; that according to the fundamental constitution of this kingdom, the ministers are accountable for all: And therefore he hoped no body would,——nay, no body durst, name the queen in this debate."

The Lord *Cowper* insisted, "That the alteration made in the question ought to be explained:" urging, "That the word 'Ministers' is of an uncertain signification, and 'Cabinet Council' a word unknown in our law; that if that august assembly proceeded to a censure upon men, the world ought to know who they were; that he hoped the Lord who proposed this question, would explain himself; and hoped, at the same time, that if any body were accused, it would appear to be without ground: that he had the honour to be one of the ministry, and did not know whether it was designed to involve him in the same censure; but he protested, with the utmost sincerity, that while he was in that post, he gave his advice, and acted to the best of his understanding, and with an honest intention to serve the queen and his country."

The Earl of *Scarsdale* said, "He thought the word 'Ministers' very proper; and that the Lord Treasurer, that is, the lord

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Godolphin, was named in the earl of Sunderland's letter."

The Earl of *Paulett* urged, "That there is no distinction between the Ministry and the Cabinet Council; for those who were of the Cabinet were ministers."

The Duke of *Beaufort* said, "That the word Cabinet Council does not imply all Ministers."

The Lord *Ferrers* added, "That the word Ministry is more copious than Cabinet Council, but however, it was indifferent which they took."

The Earl of *Godolphin* replied, "That since the word Ministers was more copious, it was therefore improper in this case, because their lordships ought to be sure whom they designed to censure. And then taking notice, how late it was in the night, and that a person concerned in this debate was absent, he moved for adjourning." Hereupon

The Duke of *Leeds* made a pretty long speech; the most material passage in which was, "That her majesty having given leave for any Lord, or other of the Cabinet Council, to communicate what they knew about the affairs of Spain, no offence could be taken if any person cleared himself." Upon which

The Lord *Cowper* said, "He knew not whether he was included in the word 'Ministry.'" Hereupon

The Earl of *Paulett* said, "This was the first time that this nice distinction between 'Cabinet Council' and 'Ministry' was made a dispute, which looked like a delay."

The Earl of *Isla* said, on the same side, "That it was irregular and improper to take notice, in this debate, either of the Address to the queen, or of the question proposed before, in both which the word 'Cabinet Council' was inserted; that it was true, this word was not commonly known in the law, neither was the word 'Ministry,' and therefore they ought to use a plain English word. That he could mention an instance at the Revolution, when a word * of an uncertain signification occasioned much debate. That he wished, if the question should pass with the word 'Ministers,' they would mention two Lords that had been already named—that he should be sorry to hear, or repeat the sound—but, however, he thought it necessary to name them." To this

The Lord *Halifax* answered, "That the mentioning the Address and former question, was not improper; that they were stating the signification of two synonimous words of great weight and importance in this case; and therefore he desired, that the Address to the queen might be read." This being done accordingly, his lordship added, "He wondered at the method used on this occasion: for he understood the queen was desired to give an immediate Answer to this Address; with an intimation, That the House was sitting, expecting her majesty's Answer, which was not usual." Hereupon

The Duke of *Argyle* said, "He thought what the noble Lord that spoke last had said, was accusing the House of doing an uncivility to the queen.' At which several Lords crying, 'Go on! Go on!' the lord Halifax said, "That if their lordships looked on their Journals, they would not find it usual."

The Earl of *Paulett* appealing to the Lords, "Whether the words 'immediate Answer' were ever mentioned?"

The Duke of *Buckingham* said, "He never heard of any such thing spoken; and if he had, he would rather have gone to the Tower than have carried such a message." Upon which

The Lord *Halifax* excused what he had said, alledging, "He was not in the House when the Address was sent, but had been told, that a motion for an immediate Answer was made; which he believed was without a precedent." To this

The Earl of *Ferrers* answered, "That no such thing had been mentioned, but if it had, it would not have been unusual; for he remembered such a Message was sent to the late king William when he lay sick. That they had been long debating about the words 'Ministers and Cabinet Council;' and that, to prevent all exceptions, both might be put in the question." Hereupon

The Earl of *Peterborough* said, very shrewdly, "That he thought the word 'Cabinet Council not so proper as Ministers:' That he had heard a distinction between the Cabinet Council and the Privy Council; that the Privy Counsellors were such as were thought to know every thing, and knew nothing; and those of the Cabinet Council thought nobody knew any thing but themselves: And that the same distinction might in a great measure, hold, as to Ministers and Cabinet Council. That the word Cabinet Council, was, indeed, too copious; for they disposed of all; they fingered the money; they meddled with the war; they meddled with things they did not understand: So that, sometimes, there was no Minister in the Cabinet Council."

The Lord *Halifax* insisting against the alteration made in the first question, and pressing their lordships to speak to the same words they had used in their Address to the queen,

The Earl of *Rochester* renewed his former expostulation, "That, for several years together, the queen was to answer for every thing; instancing in the time when the Memorial of the Church of England was indicted, and the church was suggested to be in danger, (which for his part his lordship thought to be so, in the hands of some men) when the Answer was ready, to stop people's mouths, What! to suspect the queen!" He added, "That the distinction between Cabinet Council and Ministers, was a more nicety used only to delay. That he knew the lord Godolphin was in that high station." And concluded with a motion, "That the Lords would give an account of what they knew, provided they would

* Meaning the word *Abdicate*. See vol. 5, p. 66.

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speak to the point in question, and not to a nicety."

The Duke of *Argyle* said, "He thought all ministers were of the Cabinet Council, but that all the Cabinet Council were not ministers."

The Lord *Cowper* urged "the ambiguity of those two terms, as an argument against using them; the rather, because of four of the Lords that were for the question, two were of one opinion, and two of another. That, however, he hoped they would drop this, and debate the main question. That for his own part, he was of opinion, that the war in Spain ought to be offensive and not defensive. That this was the sense of the whole kingdom. That he did not remember, that, when the earl of Peterborough's letter to sir Charles Hedges, about his lordship's project, was read, there was any difference of opinion in the Council: All being unanimous for an offensive war with Spain. That when the project against Toulon was concerted with the duke of Savoy, his royal highness never desired that the war might be defensive in that kingdom. That it was unreasonable and unprecedented to censure men for an opinion, because it had proved unsuccessful; and that, for his own part, he gave his advice with the best and most sincere intentions to serve his country."

The Earl of *Peterborough* answered, "That one would be apt to think the ministry were, indeed, for a defensive war, when they suffered him to want men, money, and all necessaries. That though he had instructions to treat about the siege of Toulon, he had letters of revocation sent him on a sudden; which, however, he sent back unopened, because having appeared, in several courts, with the character of ambassador plenipotentiary, and the duke of Berwick having taken his credentials, he could not give re-credentials. That his project, as trifling as it was accounted by the ministry, would have taken Toulon, whereas the regular project proved abortive. That when he came home, he was coldly received and disregarded, but preserved himself, not only by his integrity and little services, but also by caution and patience." After this, his lordship explained his project upon Naples, which was to have been put in execution in February: Adding, "That by the reduction of that kingdom, which was already disposed to declare for king Charles, and by the conquest of Sicily, the allies would have had 20,000 men to act against France, and plenty of provisions to supply their forces in Spain. As for Toulon, that it might have been invested in the winter, when there was no garrison to defend it." And to prove that he had concerted the siege of that place with the duke of Savoy, his lordship produced a letter from his royal highness; but offering to read it, several Lords cried, 'No, No.' In answer to the Earl of Peterborough's Speech,

The Earl of *Godolphin* said, "He would give their lordships an account of his thoughts and reasons, why that noble earl's project was not approved, viz. That the very overtures of it, as transmitted hither by the earl of Peterborough, in a letter, in French, to sir Charles Hedges, read the day before, shewed, that it was impossible the duke of Savoy could be in earnest, the other project being already concerted; and his ministers here earnestly desiring, in his royal highness's name, that it might be an absolute secret; so that even prince Eugene knew nothing of it, at the time the earl of Peterborough wrote that letter." Hereupon

The Earl of *Nottingham* standing up, said, "That it was too common to judge of men by the events: But God forbid that House should follow that method. That he would give the Lords his thoughts, why he should not, at that juncture, have been for an offensive war: that he would not speak as a soldier, because he was none, but would speak only to matters of fact; and if he was wrong, he desired any lord there to rectify him: that he had no pique, no animosity against any body, and would have justice done without partiality: that it appeared by the Account, or Representation the earl of Galway gave of Affairs, towards the end of the year 1706, or beginning of 1707, that we were in so good a condition in Spain, that nothing could hurt us: and yet, notwithstanding the reinforcement which the earl Rivers brought to Spain, there were not above 14,000 men at the battle of Almanza: that in such circumstances, the advising an offensive war, was a very ill counsel: And therefore he concluded for the question." Upon this

The Earl of *Sunderland* owned, "He gave his opinion for an offensive war, because, to the best of his understanding, it was the best counsel that could be followed. That it was the general opinion and desire of the nation, that the earl of Galway should march again to Madrid; that all the ministry then were unanimous in their opinions for an offensive war; and that many inconveniences might have attended the dividing of the army."

The Duke of *Marlborough* said, "My lords, I had the honour of the queen's command to treat with the duke of Savoy, about an attempt upon Toulon, which her majesty, from the beginning of this war, had looked upon as one of the most effectual means to finish it. And I can assure you, that in the whole negociation, with his royal highness's ministers, one of whom, count Briançon, is dead, the other, count Maffey, is now here, not one word was spoken of Spain, where the war was to be managed, upon its own bottom, as well as that of Italy; and both independently upon one another.—As for the war in Spain, it was the general opinion of England, that it should be offensive: And as to my lord Peterborough's projects, I can assure your lordships, that one of the greatest instances that Holland and Savoy made, was, that the emperor, and we, should not insist upon an expedition to Naples, which might hinder the other design.—My lords,

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my intentions were always honest and sincere, to contribute all that lay in my power, to bring this heavy and expensive war to an end. God Almighty has blessed my endeavours with success: but if men are to be censured when they give their opinions to the best of their understandings, I must expect to be found fault with as well as the rest.—My lord Galway, and every body in Spain, have done their duty: and though I must own, that lord has been unhappy, and that he had no positive orders for a battle; yet I must do him the justice to say, that the whole Council of War were of his opinion, to fight the enemy before the coming up of the duke of Orleans, with a reinforcement of 9 or 10,000 men.—On the other hand, I must confess, I do not understand, how the separating of the army would have favoured the siege of Toulon."—The earl of Peterborough saying thereupon, "That there was a necessity of dividing it to go to Madrid." The duke of Marlborough resuming his speech said, "I will not contradict that lord as to the situation of the country; but this separation of the army could not be in order to a defensive but to an offensive war; which, in my opinion, was the best way to make a diversion, and thereby hinder the French from relieving Toulon. But after all, that unhappy battle had no other effect, than to put us upon the defensive; for the French troops that were detached from Spain, never came before Toulon."

The Duke of *Argyle* having answered this last part of the duke of Marlborough's speech, viz. That the battle of Almanza did but put us upon a defensive in Spain: Added, "That as for what related to the earl Rivers, it was certainly a fault to prefer an unfortunate foreigner before a peer of Great Britain."

The Lord *Cowper* replied, "That the answering Mr. Stanhope's Letter, by approving his advice, was certainly the wiser, the honester, and the more popular opinion; every body in England being then for an offensive war: that he wished every member in that august assembly would lay his hand upon his heart, and say, in conscience, whether he would not have been for the same opinion? That to have advised a lingering, expensive, defensive war, would, no doubt, have now been made more criminal than this charge, which was heavy enough. That the raising the siege of Toulon, could not, in reason, be imputed to the offensive war in Spain, and to the loss of the battle of Almanza; but rather to the expedition to Naples; the slow march of the German recruits, through the country of Grisons, and other unforeseen accidents, which attend all human affairs: But, added his lordship, if this question should pass into a Resolution, it will be the comfort of those on whom the censure will fall, that the world will judge, that it is founded on strained deductions, and forced consequences, foreign from the premises. My lords, all Englishmen love action, it is their temper and inclination. To conclude, I repeat it again, it will be a consolation, that the conclusion is not warranted by the premises."

The Earl of *Paulett* answering, "That the battle of Almanza was a necessary consequence of the opinion and directions of the ministry."

The Duke of *Devonshire* replied, "He remembered that the lords themselves, that now spoke against an offensive war in Spain, were for it some years before; that among the rest, the earl of Nottingham moved for 20 battalions to be sent from Flanders to Spain, which could not be for a defensive war; that, after the battle of Almanza, no French troops were sent from Spain to relieve Toulon; and, in short, that an offensive war is always the most effectual means to procure a peace."

The Duke of *Shrewsbury* answered, "That in all things the circumstances ought to be considered; that an offensive war may be proper at one time, and improper at another. That it having been urged, that no French troops were sent from Spain to relieve Toulon, it was certain, some troops were ordered, and upon their march, whose approach might have the same effect, as if they had actually arrived in Provence. That it is true, this nation is for fighting, and for an offensive war; but not for going to Madrid right or wrong, as was general Stanhope's opinion, approved by the ministry. That the lord Galway had a good reason to fight, because he could not help it. But that there was no reason for the ministers here, to give that opinion, because nothing forced them to it."

The Duke of *Devonshire* taking advantage of this occasion, said, "That since the allies could not subsist without fighting, it was unreasonable to censure the generals who gave their opinions for a battle."

The Earl of *Nottingham* owned, on the other side, "That he made the proposal for sending 10,000 men from Flanders to Spain; but that was after the battle of Almanza; and that only 7,000 were sent. That, as to the business of Toulon, it was certain, that, immediately after the news of the battle of Almanza, the court of France ordered detachments to be made from Spain, as appeared by the Paris gazette of the 4th of May, 1707. That he would not affirm those troops did actually march into Provence; but that, as had been observed, their approach was sufficient to contribute to the raising of the siege of Toulon."

The Earl *Rivers* said, "That it had been alledged, that the battle of Almanza was fought because the allies wanted provisions; but he could assure their lordships, that there was a gentleman here in town, who brought them provisions for eight days. That, in truth, they did not design to fight, but rather to retire towards Valencia, having, for that purpose, sent general Carpenter before, with part of his dragoons: but, upon the receipt of orders from England, they suddenly resolved upon a battle, before they were joined by general Carpenter, and without communicating to the Council of War the strength of the enemy, of which they

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had intelligence by two deserters the night before the action."

The Earl of *Ferrers* said, "That it was plain, the Council of Valencia was the cause of all our misfortunes in Spain. That the resolutions taken in it, were carried against the opinion of king Charles, and his ministers. That it was certainly a fault in the ministry here to approve that council; for a secretary of state gives no direction but from the cabinet council. That it seemed as if the blame of the raising the siege of Toulon, was intended to be laid on the emperor's forces; but this enquiry would be more proper at another time: and that another thing was to be enquired into, viz. What number of forces in her majesty's pay were, at that time, in Spain? and so concluded for the question."

The Lord *Mohun*,* on the other side, said, "He was against it, for several reasons: 1. Because he knew not who was meant by the ministry; and he would not have a censure pass upon persons, who neither deserved, nor were intended to be censured. 2. Because the advice of an offensive war was, at that time, no ill advice. 3. Because he would be just to all mankind, and not censure any body that gives his opinion to the best of his understanding, and with an honest intention."

The Lord *Somers* owned freely to their lordships, "That, had he been in the place of those that gave the council for an offensive war, he would have been of that opinion, because he should have thought himself an ill counsellor to advise any thing against the general opinion: adding, That the ill success of the battle of Almanza was no good argument against the council for an offensive war; for, if they judged of opinions by events, no man could be safe."

The Earl *Rivers* having owned there might be other good reasons why the Toulon business did not succeed,

The Earl of *Rochester* said, "That, for his own part, he must confess, that, had he, at that time, been of the cabinet council, he could not have been for an offensive war; nor would popular arguments have swayed his opinion; for he could not see the reason, that, because the people love action, we should be perpetually fighting. Concluding, upon the whole matter, that he was for the question."

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* "Charles, lord Mohun, (son of Warwick, lord Mohun, by Philippa, daughter of Arthur, earl of Anglesey,) came to the title when very young. His estate was small; and his mother re-married to William Coward, esq. serjeant at law, in consequence his education was neglected. Low connections led the youthful lord into horrid scenes of debauchery and riot. Concerned with lord Warwick and another gentleman, in 'a midnight brawl,' in the street, three persons fought them. Captain Richard Coote was killed. Warwick and Mohun were tried by their peers. The former was convicted of manslaughter, but the latter was acquitted. This shocking event made little impression upon his mind. Some years after, Mr. Montfort, 'one of the best and most amiable actors that 'ever trod the stage,' was murdered as he was walking in London, by captain Richard Hill, aided and abetted by lord Mohun. The quarrel originated, it was thought, in a supposed connection between Montfort and Mrs. Bracegirdle, the actress, whom Hill addressed with an intention of marrying. He was again tried for this second murder. Shocked with the enormity of his behaviour, at his acquittal, he expressed 'his confusion for the scandal he 'brought upon his degree, as a peer, by his be-'haviour, in very handsome terms; and pro-'mised to behave himself so, for the future, as 'not to give farther scandal.' He acted as if he had spoken from a conviction of his ill conduct, by applying himself to those pursuits which would adorn his station. In the army he ranked as colonel of a regiment. In the House of Peers he often distinguished himself by his judicious speeches. Charles, earl of Macclesfield, whose niece he had married, took his lordship with him to Hanover, when he went to that court to announce the settlement of the crown upon the illustrious House of Brunswick. Toland says, 'that none of the 'company was more generally acceptable—'that none lived with greater sobriety, nor de-'livered himself on all occasions with better 'judgment than lord Mohun; and he still 'continues to convince the world of his refor-'mation, so that he is like to prove an orna-'ment to the upper House of Parliament.' Lord Macclesfield, who died at Hanover, November 4, 1701, without issue, left him a considerable estate, which he managed with great prudence. Lord Macclesfield was succeeded by Fitton, his brother, who dying a batchelor in 1702, there was much dispute about the property. The duke of Hamilton had great claims, having married Elizabeth, sole heir of the earls of Macclesfield. It unfortunately happened that the duke, and lord Mohun, who had likewise his claims upon the estate, were present at an examination before a master in chancery respecting the matter in litigation, when the former, reflecting upon the veracity of Mr. Whitworth, who had been steward to the Macclesfield family, said, 'he 'had neither truth nor justice in him.' Lord Mohun instantly replied, 'he had as much as 'his grace.' High words ensued, and they parted in mutual anger. On the following day lieutenant-general Maccartney conveyed a challenge to Mohun from the duke, who had been appointed ambassador to France, where he was to have proceeded immediately. On Saturday, November 15, 1712, they met in Hyde Park, when each killed the other. Lord Mohun was buried in Westminster Abbey. Thus perished these unfortunate noblemen: Mohun had been most vicious, and Hamilton was very unamiable." Noble's Continuation of Granger.

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Several Lords calling for the question, and the Chairman rising in order to read it,

The Bishop of *Ely* said, "He had only one word to offer, which was, that it not appearing to him that there was any premeditated ill design in the ministry, when they gave their opinion for an offensive war, he could not be for the question."

The Duke of *Argyle* having desired, that when the question was over, he might offer another; the same was readily agreed to: And then the Earl of Abingdon put the following question:

"That it appears by the earl of Sunderland's "Letter, that the carrying on the War offensive-"ly in Spain, was approved and directed by "the ministers, notwithstanding the design of "attempting Toulon, which the ministers knew "at that time was concerted with the duke of "Savoy, and therefore are justly to be blamed "for contributing to all our misfortunes in "Spain, and to the disappointment of the Ex-"pedition against Toulon."

There happening a division, the Earl of Portland and Isla were appointed Tellers, and, it appeared, that there were 68 Lords Content, and 48 Not Content.

Thanks voted to the Earl of Peterborough.] The Duke of *Argyle* then made a Speech, importing, in substance, "That he was informed, that the earl of Peterborough had the queen's commands to negociate matters of great importance, and was to set out the next day. That he hoped every member of that House was convinced, that he had performed great and eminent services to his country, notwithstanding the difficulties and discouragements he laboured under; and how, with a handful of men, his grace thought he might call them a handful, since they never amounted to 10,000 men, he took the important city of Barcelona, and reduced so many provinces of Spain. That he needed not tell their lordships how he had been rewarded for those great services: but that it was his opinion, they ought to pass a compliment upon him, which was all the reward they could, at that time, bestow: and therefore it was his grace's motion, that this question be put:

"That the earl of Peterborough, during the "time he had the honour of commanding the "army in Spain, did perform many great and "eminent services; and, if the opinion he gave "in the Council of War at Valencia had been "followed, it might, very probably, have pre-"vented the misfortunes that have happened "since in Spain."

This question being carried, without dividing, the House was resumed; and the earl of Abingdon having reported the two Resolutions taken in the Committee, the Lord Keeper put the same questions, severally, to the House, which were again agreed to. But before the second question was put, the earl of Wharton desired, "That the Lords, who were for the first question, might say, Agreed, and that such Lords as were against it might enter their Protestations." Which they did accordingly.

A motion for adjourning to the Monday following being made, the earl of Rochester made another motion, That such lords as pleased, might make animadversions on the Protestations of such lords as should protest; which was agreed to. Then the duke of Buckingham said, one thing more was to be done before they adjourned, and that he would propose a question which he was sure would be readily agreed to, viz. "That the earl of Peterborough have the Thanks of the House for his eminent and remarkable services; and that the Lord Keeper return him the Thanks of the House immediately."

The Lord Keeper's Speech on giving the said Thanks.] This question being unanimously agreed to, the *Lord Keeper* addressed himself to the earl of Peterborough, in the following Speech;

"My Lord Peterborough; I am commanded by my Lords to return their Thanks to your lordship, for your many eminent and faithful services to your queen and country, during your command in Spain.—My Lord; The thanks of this illustrious assembly is an honour which has been rarely paid to any subject; but never after a stricter enquiry into the nature of any service; upon a more mature deliberation; or with greater justice, than at this time to your lordship.—Such is your lordship's known generosity and truly noble temper, that I assure myself, the present I am now offering to your lordship, is the more acceptable, as it comes pure and unmixed, and is unattended with any other reward, which your lordship might justly think would be an allay to it.—My Lord; had more days been allowed me than I have had minutes, to call to mind the wonderful and amazing success, which perpetually attended your lordship in Spain, (the effect of your lordship's personal bravery and conduct) I would not attempt the enumerating your particular services, since I should offend your lordship, by the mention of such as I could recollect; and give a just occasion of offence to this honourable House, by my involuntary omission of the far greater part of them.—Had your lordship's wise councils, particularly your advice at the council of Valencia, been pursued in the following campaign, the fatal battle of Almanza, and our greatest misfortunes, which have since happened in Spain, had been prevented, and the design upon Toulon might have happily succeeded.—I shall detain your lordship no longer than in obedience to the order I have received, to return your lordship, as I do, the Thanks of this House, for your eminent and remarkable services to your queen and country, during your command in Spain."

The Earl of Peterborough's Answer.] "My Lords; For the great honour and favour I have received from your lordships, I return my most humble Thanks, with a heart full of the greatest respect and gratitude. No services can deserve such a reward. It is more than a sufficient recompence for any past hardships; and to which nothing can give an addition.

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I cannot reproach myself with any want of zeal for the public service: but your lordships' approbation of what I was able to do towards serving my queen and country, give me new life; and I shall endeavour, in all my future actions, not to appear unworthy of the unmerited favour I have received to-day from this great assembly."

Protests on the Vote in Favour of the Earl of Peterborough's Account.] The Protests which many of the lords entered, were as follow:

"January 9, 1710-11, Resolved, That the earl of Peterborough has given a very faithful, just, and honourable Account of the Councils of war in Valencia.

"January 11th, 1710-11. To the questions for rejecting the Petitions of the earl of Galway and lord Tyrawly:

"Dissentient' Because, that when a question was stated in the House, which seemed to us to import a censure on the conduct of the earl of Galway, lord Tyrawley, and general Stanhope, the two Lords being now in town, should, we conceive, have been heard in their defence, before the question passed, though they had not petitioned to put in their answers; much less ought the said petitions to have been rejected. And, we think, that their having been before examined, only as to what they remembered concerning the Council in Valencia, (when they did not know that any, much less what censure was intended upon the opinions given at that Council) is not sufficient to satisfy what we apprehend to be the rule of natural justice, that every one should have an opportunity of answering for themselves, at least, upon these their humble petitions, before what we take to be a public censure should pass upon them. (Signed,) Bedford, Halifax, Leicester, Ashburnham, Devonshire, Haversham, Sunderland, Wharton, Kent, Lincoln, Dorchester, Berkley, Gibs. Sarum, R. Peterborough, Rockingham, Mohun, Marlborough, J. Winter, W. Carlisle, Jo. Landaff, Joh. Litchfield and Coventry, Stamford, Oxford, Somers, Cowper, W. Lincoln, Scarborough, W. Asaph, J. Bangor, Herbert, Hervey, Bridgewater, Godolphin, J. Ely, C. Norwich, Dorset."

Then it being moved That the earl of Galway and lord Tyrawley (if without) might be called in and heard, it was ordered accordingly; and they not being present, the House, according to order, was adjourned during pleasure, and put into a Committee to take into farther consideration the present State of the War in Spain.

After long time spent therein, the House was resumed, and the earl of Abingdon reported, That the Committee had come to the following Resolution, viz. "That the earl of Galway, lord Tyrawley, and general Stanhope, insisting at a Conference held at Valencia, some time in January, 1706 7, in the presence of the king of Spain, and the queen's name being used in maintenance of their opinion, for an offensive war, contrary to the king of Spain's opinion, and that of all the general officers and public ministers, except the marquis das Minas; and the opinion of the earl of Galway, lord Tyrawley, and general Stanhope, being pursued in the operations of the following Campaign, was the unhappy occasion of the battle of Almanza, and one great cause of our misfortunes in Spain, and of the disappointment of the duke of Savoy's expedition before Toulon, concerted with her majesty." And the question being put, That the House agree with the Committee in the said Resolution? It was resolved in the affirmative.

"Dissentient' 1. Because we conceive, that the proofs which have been before the House were not sufficient to warrant the facts as they were stated in the question. 2. Because we conceive, that the said proofs do not support the consequences drawn from the facts stated in the question; especially the disappointment of the expedition against Toulon, which (as we humbly apprehend) was clearly occasioned by other causes, and not by the cause assigned in the question. 3. Because we conceive, it may be of dangerous consequence, if those who may have the honour to serve the queen in Spain, should from hence have reason to apprehend, that they may be censured for presuming to insist on such opinions, as shall appear to them to be most for the queen's service, and the common cause, if contrary to the king of Spain, and his ministers."

The same Lords subscribed to these Reasons, as to that of rejecting the Petitions.

January 12. The House, according to order, was adjourned during pleasure, and put into a Committee to take into farther consideration the present State of the War in Spain: After a long time spent, the House was resumed, and the earl of Abingdon reported, that the Committee had come to the following Resolutions, viz. "1st, That it appears by the earl of Sunderland's Letter, that the carrying on the war offensively in Spain, was approved, and directed by the ministers, notwithstanding the design of attempting Toulon, which the ministers, at that time, knew was concerted with the duke of Savoy, and therefore are justly to be blamed for contributing to all our misfortunes in Spain, and to the disappointment of the expedition against Toulon. 2dly, That the earl of Peterborough, during the time he had the honour of commanding the army in Spain, did perform many great and eminent services; and if the opinion he gave in the Council of War at Valencia had been followed, it might, very probably, have prevented the misfortunes that have happened since in Spain." Then the first Resolution being read by the clerk, the question was put, That the House do agree with the Committee in this Resolution? It was resolved in the Affirmative.

"Dissentient' Because that, considering the army of the allies in Spain was to receive so great an addition of troops by the supply sent under the earl Rivers, the general desire and expectation of the kingdom to have the war brought to a speedy conclusion, and all other

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circumstances of the war, as it then stood; we are of opinion, that an offensive war was then fittest for those in her majesty's service to advise; and we do not find reason, by any thing arising on the examinations and debates, to be of another opinion; the occasion of fighting the battle of Almanza, depending, as we conceive, on causes subsequent to that advice; the ill success of it, as we apprehend, being justly attributed to other manifest reasons, and the real design on Toulon, as finally adjusted with the duke of Savoy, not requiring, as appears to us, the assistance of any forces from Spain. (Signed) Devonshire, Kent, Lincoln, Wharton, Godolphin, Gilb. Sarum, Somers, Jo. Litchfield and Coventry, W. Asaph, Dorset, Jon. Winton, Sunderland, Bolton, Bedford, Leicester, Stamford, Rockingham, Scarborough, J. Ely, W. Lincoln, Jo. Landaff, Hervey, Rich. Petriburg. J. Bangor, Marlborough, Dorchester, Orford, Herbert, Mohun, Cowper, Ashburnham, C. Norwich, Bridgewater, Derby, Carlisle, Berkeley."

The Earl of GALWAY'S REPLY, or OBSERVATIONS upon the Earl of PETERBOROUGH'S ANSWERS to the five QUESTIONS proposed to his Lordship by the Lords, are as follows:

"Your lordships having been pleased to allow me a copy of all such Papers as have been produced, to prove the truth of the earl of Peterborough's Answers to the 5 Questions that were proposed to him by this honourable House, together with a copy of those Questions and Answers, with leave to answer to any such part thereof as I might conceive myself to be concerned in, and have not already sufficiently explained in my Narrative, I do take the liberty of observing to your lordships, that,

"The earl of Peterborough, to the first Question, is pleased to say, 'The management 'of the War in Spain, when under the conduct 'of other generals, was not only supported with 'great numbers of men, and vast sums of 'money, but also with notorious falsehoods, 'published in their favour, to excuse their re-'peated disgraces.' Whereas his lordship cannot but remember, that when he sailed from Portugal with the king of Spain to Barcelona, he left only one regiment of horse, and 5 of foot, under my command in that country; I have voluntarily offered him, and he has freely accepted of two regiments of dragoons from Portugal, and four battalions of foot from Gibraltar, which I had sent to the defence of that place.—I declare, I never traduced the said Earl's conduct, either by letters or otherwise, though it seems the queen had been fully informed thereof, particularly in regard to the misunderstanding between his lordship and the king of Spain, to which his catholic majesty has attributed his delays in marching to his capital, as may appear by count Gallas's Memorial, a copy whereof lies on your lordships' table. It is well known, the first disgrace that ever happened to us in Spain, was occasioned by his lordship's not joining us in time at Madrid; and all the misfortunes that attended us afterwards, were owing to that neglect.

"His lordship is pleased to say farther in his Answer to the same question, 'That to excuse 'the fatal battle of Almanza, a king was to be 'used at that rate, as to have it, in an account, 'printed by authority, declared, that he took 'numbers amounting to 4 or 5,000 men, from 'a battle to be fought for his crown, the very 'regiments of horse and foot mentioned by 'name: Whereas it is notoriously known to 'the whole world, that he took only about 200 'miserable Spanish dragoons; and that of the 'regiments mentioned to be taken away from 'the English general in Valencia, some of them 'were never in being: others were regiments 'of trained bands in Barcelona; and none of 'them within 250 miles of that place.' Whereupon I beg leave to observe, That, notwithstanding the Earl's reflection on that Paper published by authority, the account therein printed is so far from having been exaggerated, that there were actually some battalions of regular troops absent in Catalonia, besides those mentioned in the Gazette, June 1707; and several officers who were at Almanza can depose, that there was not one Spanish corps, either horse, foot, or dragoons, on our side, at that battle.—If part of the king's forces were at 250 miles distance, that may be a reason why they could not be at the battle; but none can be given for their being at that distance, except in the case of some few garrisons, which might, indeed, have been necessary, but could not require above 6 or 7 battalions, whilst the army was then in the field; whereas his catholic majesty had, at that time, in his own pay in Spain, above 6,000 men, besides the Dutch and English that were in Arragon and Catalonia. And those regiments which the Earl is pleased to call trained bands, because they bore the name of some particular town or province that raised or subsisted them, are no more so, than the regiments of Picardy and Burgundy in France, though newly raised.

"In his lordship's Answer to the second Question he is pleased to aver, 'That, from the time 'the earl of Galway came first into Spain as far as 'Almaras, and thence returned back to Portugal, 'the earl of Peterborough had no advices from 'the earl of Galway, no account of the motives 'of that retreat, or any hopes given him of the 'return of the Portuguese into Spain.' What his lordship says upon this occasion is very true, for whilst he was at so great a distance, besieged in Barcelona, and the duke of Berwick, with a considerable body of horse, between him and us, it was to no purpose to think of sending dispatches by land; neither was it necessary to inform the enemy that way, that the Portuguese were resolved (notwithstanding the repeated instances of the foreign generals to the contrary) to return back again to their own country, after their army had advanced as far as the bridge of Almaras. But when we got to Madrid, I immediately sent so many expresses with letters,

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both to the earl of Peterborough, and the king of Spain, that it was morally impossible his lordship could have been ignorant, above eight days, of our arrival there: and I have since been assured, by the inhabitants of Barcelona, that they were all informed of it by that time; from whence I must conclude, that his lordship's delays in joining us were voluntary, and not occasioned by want of intelligence. I have asserted in the Narrative, which I delivered into this most honourable House, that I do verily believe, if the Portuguese army had been joined in time after their arrival at Madrid, by the forces with the king of Spain, and under the command of the earl of Peterborough, we might have been able to have driven the duke of Anjou out of Spain, and have put an end to an expensive war: nor was this my opinion only, but that of all the world, at that time. And I find his lordship thinks it so far imports him, to be clear of this imputation, that he is resolved to be rid of it at any rate. For certainly, nothing less than an apprehension of this nature could have made him aver a fact so improbable as that, where, in his farther answer to the same question, he says, 'That 'he received no letter, no message from the earl 'of Galway,—after his second entrance into 'Spain; nor had the least notice of his situa- 'tion, circumstances or designs, till he saw his 'troops retreating from the enemy, to take the 'strong camp of Guadalaxara.'—Now what could be the design of his lordship's marching to Guadalaxara, with so small a body of troops as is mentioned in my Narrative, unless he knew he was to meet us there? Besides, his lordship forgets that he came not to Guadalaxara till some days after the Portuguese had been actually encamped there, as I can make appear by the oath of several officers; and consequently, it was impossible for him to have seen us retreating thither.—I believe it may be necessary, upon this occasion, to repeat, that when his lordship did join us, he brought no more English troops with him, than one regiment of dragoons and a detachment of another, though he had actually at that time under his command in Spain, 13 English battalions, and four regiments of dragoons; as likewise, that the officer, who (his lordship says) passed through his quarters with letters from the king of Spain, and none for him, was never designed to have gone within several leagues of his lordship, unless he had been obliged to it by a party of the enemy, as I have already explained more at large in my Narrative; and I cannot help observing, it is very improbable that officer could have occasion to apply to the earl's secretary for money, because I gave him an hundred pistoles at the time I dispatched him.

"In his lordship's Answer to the third Question, he is pleased to say, 'That the earl of 'Galway continued about 40 days at Madrid, 'without making any endeavours to augment 'his troops, or provide any magazines for the 'subsistance of his army; that meeting the 'enemy unexpectedly, and retreating to the 'camp of Guadalaxara, the troops were without 'provisions, and in the greatest disorder.' In reply to this paragraph, I do affirm, that the Portuguese staid no longer time at Madrid, than was necessary to get the king proclaimed there, which did not exceed ten days; then advanced as far as Guadalaxara, about 60 miles beyond Madrid, where we obliged part of the duke of Anjou's troops to repass the river; but were not willing to engage them, at a time when he had reason to expect we should have been joined in a few days, by the forces with the king of Spain, and earl of Peterborough, which was the only secure method left us to augment our troops; for it would have been very imprudent to have attempted to form corps of the Castilians, who were entirely devoted to the duke of Anjou's interest. But all the officers of the army know, we were so far from wanting provisions ourselves, that we sent a convoy of 8,000 loaves to meet the king and the earl of Peterborough, which, by their delay in not advancing fast enough, grew mouldy; and was afterwards pillaged by the peasants. His lordship's information of our want of intelligence of the enemy's motions, and of our disorder upon the retreat, are as great mistakes as the former; for the occasion of our advancing to Guadalaxara was purely to post ourselves in such a manner, as to prevent the enemy from marching or sending detachments to intercept the king of Spain: and when we had reason to believe him out of danger, we returned to Guadalaxara, there to be joined by the king, and earl of Peterborough; nor was it possible for his lordship to have seen our disorder had there been any, because, as I have already observed, he came not to Guadalaxara himself, till some days after we had been encamped there.—Notwithstanding, the earl of Peterborough is pleased to say, 'That we 'lost 5,000 men in the retreat to Valencia, 'without a blow, and entirely ruined our whole 'cavalry.' 'Tis certain, our loss upon that occasion, was not very considerable, if any, and the retreat made in so good order, that the enemy (superior as they were in number) never durst venture to attack us, after the warm reception twenty two of their squadrons met with from two battalions under the command of colonel Wade, in the town of Villa-Nova, notwithstanding we were obliged to cross plains and rivers in their view.

"And though his lordship avers in his Answer to this Question, 'That this retreat was made 'against the king's opinion, and that of all his of- 'ficers and ministers:' It is certain, the retreat was concerted and agreed upon in a council of war: It is true, some persons about the king seemed, at first, inclinable to have taken quarters in Castile, but that was soon after found impracticable; for none of those Spaniards, who were best acquainted with the country, could make a disposition of quarters, where the troops could be secure; and therefore it was resolved immediately to cross the Tagus, before the approaching rains should have rendered the

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fords impracticable; which being done, our next design was to have lodged ourselves behind the river Xucar; but neither could this be done, without taking a small town with a castle upon that river, that commanded a bridge, where the enemy had a garrison; and therefore a disposition was made for attacking this town: but by the delay of the king's generals the execution of this matter was so long deferred, that the enemy had already reinforced their garrison, and were advanced so near us with a superior force, that it was not thought adviseable to attempt the place. Thus the only resource left us was the kingdom of Valencia, whither we were absolutely to retreat, that we might preserve our communication with the seas, and canton with security.—Nor is it to be wondered at, that count Noyelles, in his letter to the earl of Peterborough, should seem dissatisfied with the measures that were then taken, since it is well known, that general used underhand to ridicule those very opinions, in councils of war, to which he had given his assent: for, being disappointed of the command of the army, (which was what he expected at his first arrival) he seemed resolved that no other general should have an army to command. It is very notorious, that a Dutch and Spanish battalion, with a detachment of English and Portuguese, amounting to above 3,000 men, were sent to Cuenca, and thrown away there (after it had been resolved to retreat to Valencia) purely to satisfy his importunity; for I always foresaw it would be impossible to protect a garrison at that distance from our quarters; but what is still more extraordinary, the sending the king's troops into Arragon with part of the Dutch, who might otherwise have been at the battle of Almanza, was another fatal effect of count Noyelles's advice.

"In the earl of Peterborough's Answer to the fourth Question, he is pleased to say, 'That 'several councils of war were held in the 'month of January at Valencia, about the 'time that intelligence was brought that the 'forces under the earl Rivers were entered into 'the Mediterranean, in order to adjust the 'measures for the ensuing campaign: that the 'matters therein debated were principally, 'whether the army should march towards Ma'drid, or seek the enemy: In the debate, the 'earl of Peterborough positively assures, that 'the earl of Galway, Mr. Stanhope, and the 'lord Tyrawley, supported those measures with 'the Portuguese general; and that the king, 'the count de Noyelles, the Spanish generals 'and ministers, with himself, argued strongly 'against those measures, as highly dangerous 'and impracticable; and this in repeated coun'cils of war, till, at last, the earl of Peterbo'rough, solicited by the king of Spain to renew 'the debate, desired the king that he would 'order all called to the council, to bring their 'opinions in writing, that every body's opinion, 'and reasons for that opinion, might appear, 'and be known to the world; which, accord'ing to the king's commands, were put in 'writing, and delivered at the council.'—In reply to this assertion, I would beg leave to appeal to your lordships' memories, whether upon the first mention of these resolutions in this most honourable House, the earl did not as positively affirm, 'That the conclusive coun'cil for the operations of the ensuing campaign 'was held on the 15th of January, and whe'ther he did not offer to depose on oath, that 'in that very council, no person whatever was 'of opinion for making an offensive war, and 'against dividing the troops, but the lord Ty'rawley, Mr. Stanhope, and I?' Soon after, indeed, upon farther recollection, he was pleased to add the marquis das Minas to our number; and, I observe, he has since given himself a much larger latitude, both as to the time of holding that council, and as to the persons who voted for an offensive war. His lordship is now so far from confining himself to a day, that he takes in the whole month, and, by accusing us more modestly, for having opposed only the king, count Noyelles, himself, and the Spanish generals and ministers, leaves half the council on our side, for supposing all the Spanish generals and ministers to have assisted at that council, there could only have been twelve persons there, viz. prince Lichtenstein, count Oropeza, count Corsana, count Cardona, count Noyelles, my lord Peterborough, the marquis das Minas, count d'Assumar, my lord Tyrawley, Mr. Stanhope, M. Freishman, and I. The last six his lordship has plainly left on our side; but my lord Tyrawley positively affirms, count Oropeza was of the same opinion, and believes count Corsana was so too. Thus, taking the matter as the earl of Peterborough is pleased to state it, we had an equality; and, as my lord Tyrawley remembers, the greater number, of our party.

"Perhaps when my lord Peterborough contends so positively to prove that council of the 15th of January conclusive, he was led into that error, by the mistake in my lord Sunderland's letter, in an answer to one of Mr. Stanhope's of January the 15th; but he has since been pleased to allow, that the council of the 15th was not conclusive, and that many more subsequent councils were held, which determined the operations of the ensuing campaign, wherein he voted himself for marching to Madrid, by the way of Arragon, which, I should have imagined, had left no farther room to mention our opinions of the 25th; but because he is still resolved to make good his charge against my lord Tyrawley, Mr. Stanhope, and me, he affirms to your lordships, That the occasion of that change in the subsequent council was, because the opinion of the majority had been over-ruled by a minister of her majesty, assuring, that the queen had given him orders to declare in her name, that her positive orders were, that they should seek the enemy, march to Madrid, and not divide the troops, upon any account whatsoever.

"I must confess, I do not conceive that it imports me much to reply to this part of the

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earl's answer, nor shall I attempt to make a defence for an absent man; for if Mr. Stanhope was here, I doubt not but he would be able sufficiently to justify his own conduct in this affair: yet I cannot help saying, that even malice itself has never yet suggested, that my lord Tyrawley, Mr. Stanhope, and I, did not act, on that occasion, with great integrity, according to the best of our understandings; nor (with great submission to this most honourable House) shall I ever be ashamed to own an opinion, which was then, not only the common sense of the army, but agreeable to the desires and interest of the whole kingdom of England. In the earl of Peterborough's farther Question, he is pleased to say, 'That, notwithstanding 'this, the earl of Galway brought the army 'into the plains of Valencia, the direct con-'trary route to that of Arragon, and into all 'those dangers which he was to avoid, by 'marching by the head of the Tagus.' In reply to this Answer, I shall only observe, that I had not the command of that army (which consisted of three separate bodies, English, Portuguese and Dutch) but the marquis das Minas, from whom I always received orders; and the battle of Almanza was fought by the unanimous approbation of a council of war; nor could the resolutions of that council have ever been executed, had there been the least difference in opinion, because each commander of a separate corps might have refused to march.—For the occasion of our moving towards Almanza, I must beg leave to refer to my Narrative, where I have mentioned more at large, that, in order to execute the resolutions of those councils of war, where it was agreed, we should march to Madrid by the way of Arragon, but first to destroy the enemy's magazines on the frontiers of Valencia, I went with the marquis das Minas, in the beginning of April, to Yecla, where the enemy's chief magazines lay, and from thence to Villena, where we had advice of their troops being assembled at Almanza, upon which that council was held, wherein the battle was unanimously resolved on. The earl of Peterborough is pleased to add a reason for his opinion,—'That the duke of Savoy and prince Eugene 'had declared their sentiments for a defensive 'war at that time in Spain, and had communi-'cated their thoughts to Charles 3, upon that 'subject, to the certain knowledge of the earl 'of Peterborough, as he can make appear by 'authentic papers from the king of Spain.'—I shall not take upon me to deny a matter of fact, which his lordship so positively affirms, but I have been credibly informed that the duke of Marlborough and my lord Godolphin, did both of them assure this most honourable House, that the true project against Toulon was not concerted by the earl of Peterborough, prince Eugene, and the duke of Savoy; but first set on foot by the duke of Marlborough with count Maffey in Flanders, and finished in England, with the counts Maffey and Briançon; but did not require that any troops should be sent from Spain, nor was ever communicated to the earl of Peterborough; which, indeed, his lordship seems to be aware of, when he says, not long after, that the project against Toulon, as settled by him, had been so altered, that the duke of Savoy publicly declared his dislike of engaging in it. And yet it is most certain, that his royal highness did engage in an attempt against Toulon, pursuant to the project concerted in England; and though that attempt did not prove entirely successful, it had a very good effect, for thereby a great body of the enemy's troops were diverted from acting elsewhere; and a considerable damage was done to the fleet and magazines of France. --What his lordship says, concerning a project that was formed for the taking of Origuela before the opening of the campaign, is very true; but that project being afterwards found impracticable, for want of provisions, and the campaign drawing near, the earl Rivers's troops, which had been quartered, after their landing at Alicant, in the nearest and most commodious towns for their reception, were ordered to remove to the Ova de Castalla, two short days march from the places where they lay before, that the enemy might not get between them and the rest of our quarters, to surprize us.

"In the earl's Answer to the fifth Question he says, 'The king of Spain, when the troops 'were marching into Murcia towards the enemy, 'assembled a council of war to no other pur-'pose, but to send by the hands of his Secretary 'of State a Protest, with his reasons why he 'would not march with the army, but to go 'to protect his subjects in Catalonia: the con-'tents of which Protest the earl very well re-'members, having had a copy of it by the king's 'order.' His lordship's memory, as positive as he is, must have failed him extremely in this matter, for the army never did march into Murcia, nor any part of it, except a detachment of the troops under his lordship's command which returned from thence with very ill success; and whatever he may aver to have been the reason of the king of Spain's leaving the army, and going to Catalonia, it is certain, his journey thither was fixed long before the army assembled, for no other reason that I ever yet heard of, but because he had a mind to redress some disorders there; and his majesty always promised to be back again by the time our army should be ready to take the field: And it is notoriously known that the reasons for that journey were thought so insufficient, that not only all the foreign generals and ministers, but even the city and kingdom of Valencia, by their deputies, protested against it.

"As to what the earl of Peterborough is pleased to say, concerning those instruments which he has to produce, as proofs of the king of Spain's having been over-ruled on many occasions, in what he proposed for the public service—I can only reply, that I do not remember to have seen any of those proofs, except a letter of the king of Spain to his lordship, where his

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majesty observes that the English, Portuguese and Dutch generals had refused him men to send to Majorca in councils of war held on the 17th and 19th of January; from whence I hope, I may reasonably infer, the great probability of those generals having been of opinion, but two days before, against dividing the troops; And I must say, my behaviour to the king of Spain, whilst I had the honour to serve under him, was such that he never had occasion to complain against me, by his ministers to the queen, as he did most strenuously, by the count de Gallas, against the earl of Peterborough.

GALWAY."

Question put to Lord Galway, Why he gave the right to the Portuguese in Spain?] It was generally believed that the Lords would have been contented, with having passed a slight occasional censure on the earl of Galway; which seemed the more probable, because the most considerable peers, of both parties, had spoken very honourably of him in the forementioned debates: But on Friday the 17th of January, he was summoned to attend their lordships the Monday following. My lord Galway being then indisposed with a rheumatism and the gout, and therefore unable to obey that order; the Lords sent him a Question in writing, viz. Why, whilst he commanded the British forces in Spain, he gave the right to the Portuguese? To this the earl of Galway sent an answer, importing, 'That by the Treaty with Portugal, the troops of that crown were to have the right in their own country; and that in order to engage them to march to Madrid he was obliged to allow them the same honour; for otherwise, they would never have stirred out of Portugal.'

His Conduct therein voted dishonourable to the British Nation.] Though this reason seemed very plausible; and it is certain, that if the Portuguese had not marched into Castile, upon my lord Galway's refusing to give them the right in Spain, his lordship would certainly have been generally reflected on, for losing the vast benefit that was reasonably expected from the conjunction of the Portuguese, with king Charles's forces, on a punctilio of military honour; yet, (perhaps, lest such a condescension should be drawn into a precedent) the Lords thought fit to resolve, by a majority of 64 voices against 44, "That the earl of Galway, in yielding the post of her majesty's troops to the Portuguese in Spain, acted contrary to the honour of the imperial crown of Great Britain."

The Lords enquire into the Number of effective Men in Spain, at the time of the Battle of Almanza.] Jan. 31. The Lords resumed the consideration of the State of the Nation, in relation to the affairs of Spain; and debated, why there were but about 13,700 effective men at the Battle of Almanza, when the parliament had provided for about 29,000: After which, their lordships appointed a Committee to enquire into that matter. It is observable, that in this debate, no manner of fault was found with my lord Galway; and that the whole blame was laid on the late ministry.

Protest on the Vote concerning two Regiments on the Spanish Establishment.] Feb. 3. Upon report from the Committee of the whole House appointed to take into farther consideration the present State of the War in Spain, that they had come to this Resolution, viz. "That the two regiments upon the Spanish establishment, twice demanded, and provided for by parliament, were not supplied as they ought to have been." And the same being read, the question was put, Whether to agree with the Committee in this resolution? It was resolved in the affirmative. Contents 62; Not Contents 46.

"Dissentient'

"Because the Estimates in which the two regiments of Hill and Hotham were twice demanded, were agreed to by parliament for the service of Portugal, as well as of Spain: and that mistake could not, in our opinion, have been more effectually or sooner supplied than from Ireland, and in the manner they were; for it appears to us, the said Estimates were not agreed till the 11th of January, 1706-7.—That the necessary order for transporting four other regiments from Ireland to Portugal were issued on the 8th of February next following; and that the money provided for the said two regiments, twice reckoned, was applied to the payment of the said four regiments from the time of their embarkation. (Signed) Devonshire, Ashburnham, Jo. Ely, Jo. Landaff, Godolphin, T. Wharton, Sunderland, Rich. Petriburg', Herbert, Scarborough, Rochester, J. Bridgwater, Kent, Jon. Winton, Jo. Bangor, W. Lincoln, Rockingham, Lincoln, J. Litch. and Cov', Stamford, Pelham, Bolton, Westmoreland, Somers, Halifax, Gi. Sarum, W. Carliol', Cholmondeley, Haversham, Hervey, C. Norwich, Orford, Cornwallis, Bedford, Carlisle, Cowper."

Protest on the Vote concerning the Deficiencies of Men on the said Establishment.] Then another Resolution of the said Committee being read, viz. "That by not supplying the deficiencies of the Men given by parliament for the war in Spain, the ministers have greatly neglected that service, which was of the greatest importance." The question was put, Whether to agree with the committee in the said Resolution? It was resolved in the affirmative.

"Dissentient'

"Because the Resolution on the former particular is not, as we conceive, a sufficient ground for this general vote; and the Committee of the whole House having declined to give any opinion on the other particulars, we think it unreasonable to proceed to a censure on the ministers for not supplying the deficiency, without first resolving on the several particulars, how far that deficiency might be justly imputed to them.—And we are of opinion, that all the money given by parliament, for the service of Spain and Portugal, has been timely and punctually issued for that service.

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The rest of this Protestation was expunged by Order of the 9th instant, and is not legible. (Signed) Cornwallis, Jonat. Winton, Will. Carliol', Jo. Landaff, Ashburnham, Herbert, Bolton, Lincoln, Rockingham, T. Wharton, Bedford, J. Bridgewater, Jo. Bangor, Devonshire, Ric. Petriburg', W. Asaph, Godolphin, Stamford, Haversham, Dorchester, Scarborough, J. Litch' and Cov', Pelham, Westmoreland, Gi. Sarum, Kent, W. Lincoln, Somers, Cholmondeley, Orford, Cowper, Carlisle, Halifax, Harvey, C. Norwich, Sunderland, J. Ely."

Representation of the Lords to the Queen concerning the State of the War in Spain.] Feb. 10. In consequence of what before passed in the House, relating to the Affairs of Spain, the following Representation of the Lords was this day presented to her majesty:

"1. We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, do, with all humility and thankfulness, acknowledge your great goodness and condescension, in ordering to be laid before us many letters and papers relating to the war in Spain, by which, and by the examination of divers persons, and by the assistance of the earl of Peterborough, who, by your majesty's permission, informed us, with great exactness, of many particulars, and gave us a very faithful, just and honourable account of the councils of war held in Valencia, we have been enabled to discover some of those many miscarriages which have disappointed the hopes your majesty, and all Europe, justly conceived from the resolutions of your parliaments; and had they been pursued with as much care by those whom your majesty entrusted, as they were taken with zeal and good affection, the success, by the blessing of God, might have answered those expectations.

"2. When we consider how generously your majesty engaged in this war for asserting the Liberties of Europe, and the rights of the House of Austria to the Spanish monarchy, which had been wrested from them by the artifices and usurpations of the French king, when a prince of that illustrious family came to your majesty for refuge against oppression, and that your majesty had received him into your protection, moved thereunto not only by your own innate goodness, but by the voice of your people too, who were ready to sacrifice their lives and treasure for the support of your majesty in the defence of so righteous a cause; and when we further consider what would have been the happy fruits of a successful war in Spain, the honour of your majesty, the safety, wealth, and prosperity of your own dominions, and the lasting peace of Europe; we are astonished to find, that any employed by your majesty should contribute to the disappointment of so glorious a design, or so much as neglect to promote it.

"3. We were extremely surprized to find, by all the accounts now before us, that of the 20,395 men given by parliament for the service of the war in Spain, there should be present in Spain, at the time of the battle of Almanza, only 13,759.

"4. However the earl of Galway, who commanded your majesty's troops at that time in Spain, may have deserved to be censured in other respects, we cannot charge him with the deficiency of 1710 men, twice reckoned in the regiments of Hotham and Hill: nor of 876 men of lord Barrimore's regiment, reduced by the earl of Peterborough, and was then raising in England: nor of 1833 men, allowed for servants of the officers belonging to the regiments actually in Spain, and not reduced at the time of the battle: nor of 151 of the widows men for all the regiments in Spain at that time: nor of 3741 men of the regiments of Farrington, Hamilton, Mohun, Brudenel, Allen and Toby Caulfield, that were reduced some time before the battle: nor of the 622 non-commissioned officers and private men of Blosset's regiment that were reduced by the earl Rivers and incorporated into Sybourg's.

"5. For whatever defects there have been, these are most of them justly to be imputed, to those who had the management of your majesty's affairs here, whose duty it was to give the necessary orders, and to require the due execution of them, for a service which the nation had so much at heart, as the recovering Spain out of the hands of the French.

"6. And therefore, whatever the reasons may have been, for reckoning the regiments of Hotham and Hill twice in the estimate presented to the House of Commons; yet, since the number of men demanded for that year's service was readily agreed to by them, we could not but be of opinion, that the two regiments upon the Spanish establishment twice demanded, and provided for by parliament, were not supplied as they ought to have been.

"7. And, upon consideration of the other deficiencies, we have found reason to resolve, 'That, by not supplying the deficiencies of the 'men given by parliament for the war in Spain, 'the ministers have greatly neglected that ser-'vice, which was of the greatest importance.'

"8. And yet negligence and the profusion of vast sums of money given by parliament are not the only faults we have to lay before your majesty. We beg leave to add, that unaccountable advice given at Valencia, for an offensive war at that time in Spain, and approved of here, notwithstanding it was well known how few troops we had in Spain, even with the addition of those sent with the earl Rivers; and the fatal battle of Almanza, that ensued, the steps that led to it, and the sad consequences that attended it, under which we still labour.

"9. The earl of Galway, lord Tyrawly, and general Stanhope, insisting, in a conference held at Valencia, some time in January 1706-7, in the presence of the king of Spain, and your majesty's name being used in maintenance of their opinion, for an offensive war, contrary to the king of Spain's opinion, and that of all the general officers and public ministers there (except the marquis das Minas); and that opi-

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nion of the earl of Galway, lord Tyrawly, and general Stanhope, being pursued in the operations of the following campaign, was the unhappy occasion of the battle of Almanza, and one great cause of our misfortunes in Spain, and of the disappointments of the duke of Savoy's expedition before Toulon concerted with your majesty.

"10. And it appears, by the earl of Sunderland's letters, that the carrying on the war offensively in Spain was approved and directed by the ministers, notwithstanding the design of attempting Toulon, which the ministers at that time knew was concerted with the duke of Savoy; and therefore are justly to be blamed for contributing to all our misfortunes in Spain, and to the disappointment of the expedition against Toulon.

"11. Before we conclude this humble Address to your majesty, we think ourselves obliged to acquaint your majesty, that as the earl of Galway has, in yielding the post of your majesty's troops to the Portuguese in Spain, acted contrary to the honour of the imperial crown of Great Britain; so we find the earl of Peterborough, during the time he had the honour of commanding the army in Spain, did perform many great and eminent services; and if the opinion he gave in the Council of War at Valencia had been followed, it might very probably have prevented the misfortunes that have since happened in Spain.

"12. Having laid before your majesty this faithful Representation of the mismanagements of those persons entrusted with your most important affairs, and to whose counsels and conduct the fatal miscarriages of the war in Spain are in great measure to be imputed; we have an entire confidence, that your majesty will give such orders, and take such measures, with regard to our present circumstances, as may retrieve the bad effects of that unhappy management, to the advantage of the common cause, and to the obtaining a safe and honourable peace."

The Queen's Answer.] Her majesty gave this Answer:

"My Lords; I am satisfied with the Examination you have had into the Management of the War in Spain; and thank you for the Representation you have laid before me, on that subject.—You may be confident, I will give the best orders our present circumstances can allow of, to put the affairs of that kingdom into a better condition; and take such measures as may most effectually contribute to the advantage of the common cause."*

Abuses in the Victualling-Office inquired into.] January 3. The Chancellor of the Exchequer, (Mr. Harley) acquainted the Commons, "That on Examinations relating to the Navy, taken before the Lords-Commissioners of the Treasury, some very considerable Abuses had been

* "When resolutions are taken up beforehand, the debating concerning them is only a piece of form used to come at the question with some decency: and there was so little of that observed at this time, that the duke of Buckingham said in plain words, that they had the majority, and would make use of it, as he had observed done by others, when they had it on their side. So, though no examination had been made, but into that single point of the numbers at Almanza, they came to a general Vote, That the late Ministry had been negligent, in the Management of the War in Spain, to the great prejudice of the nation; and they then ordered all their proceedings and votes to be put in an Address, and laid before the queen: And though they had made no enquiry into the expence of that war, nor into the application of the money, given by the parliament for it, yet in their Address they mentioned the great profusion of money in that service. This they thought would touch the nation very sensibly; and they hoped the thing would be easily believed on their word. Protests were made against every Vote, in the whole progress of this matter: Some of these carried such reflections, on the Votes of the House, that they were expunged. I never saw any thing carried on, in the House of Lords, so little to their honour as this was; some, who voted with the rest, seemed ashamed of it: They said, somewhat was to be done, to justify the queen's change of the ministry; and every thing elsewhere had been so well conducted, as to be above all censure: So the misfortune of Almanza, being a visible thing, they resolved to lay the load there. The management of the public treasure was exact and unexceptionable: so that the single misfortune of the whole war was to be magnified; some were more easily drawn to concur in these Votes, because by the Act of Grace, all those, who had been concerned in the administration, were covered from prosecution and punishment: So this was represented to some, as a compliment that would be very acceptable to the queen, and by which no person could be hurt. They loaded singly the earl of Galway, with the loss of the battle of Almanza, though it was resolved on in a Council of War, and he had behaved himself in it, with all the bravery and conduct that could be expected from a great general, and had made a good retreat, and secured Catalonia with unexpressible diligence. They also censured him for not insisting on the point of honour, in the precedence to be given to the English troops, as soon as the Portuguese Army entered into Spain: But, by our treaty with that crown, the army was to be commanded by a Portuguese general; so it was not in his power to change the order of the army: If he had made the least struggle about it, the Portuguese, who were not easily prevailed on to enter into Spain, would have gladly enough laid hold of any occasion, which such a dispute would have given them, and have turned back upon it: And so by his insisting on such a punctilio, the whole design would have been lost. We had likewise, in our treaty with

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discovered in the Victualling; and that a Member of that House was named therein:" upon which the Commons resolved to present an Address to the Queen, to have those Examinations laid before them: which being done accordingly, and the same referred to a Committee, Mr. Ridge, the member named therein, desired that he might attend that Committee, to make his innocency appear: of which, the consequence will be seen in its proper place.

Two Lotteries.] The money did not come into the treasury so readily as formerly, neither upon the act of 4*s.* in the pound, nor on the duty laid on Malt. So to raise a quick supply, there were two bills passed, for raising three millions and a half by two lotteries; the first of 1,500,000*l.* and the second of 2,000,000*l.* to be paid back in 32 years; and for a fund to answer this, duties were laid on hops, candles, leather, cards and dice, and on the postage on letters. In one branch of this, the House of Commons seemed to break in upon a rule, that that had hitherto passed for a sacred one. When the duty upon leather was first proposed it was rejected by a majority; and so, by their usual orders, it was not to be offered again during that session: but, after a little practice upon some members, the same duty was proposed, with this variation, that skins and tanned hides should be so charged; this was leather in another name. The Lotteries were soon filled up; so, by this means, money came into the treasury; and indeed this method has never yet failed of raising a speedy supply.* There was no more asked, though in the beginning of the session, the House had voted a million more than these bills amounted to; which made some conclude, there was a secret negociation and prospect of peace.

Inquiry concerning the Palatines.] The Commons, finding the encouragement given to the Palatines was displeasing to the people, resolved to inquire into that matter. In order to this, a Petition was procured from the inhabitants of St. Olave, and other parishes, complaining of the great number of Palatines inhabiting in one house, whereby it was feared some contagious distemper might happen, and having not wherewithal to subsist themselves, were likely to become chargeable to the parish. This Petition was immediately referred to the consideration of a committee, appointed for that purpose, with instructions to enquire, upon what invitations or encouragement the Palatines came over, and what monies were expended in bringing them into Great-Britain, and for maintaining them here, and by whom paid. As the design was now formed to load the late administration all that was possible, it was pretended, that, in the whole affair of the Palatines, there was a design against the church, and to increase the numbers and strength of the dissenters. The queen was addressed for the papers relating to the bringing over and subsisting the Palatines; and at last the House agreed to the following Resolutions of their committee, "That the inviting and bringing over into this kingdom the poor Palatines, of all religions, at the public expence, was an extravagant and unreasonable charge to the kingdom, and a scandalous misapplication of the public money, tending to the increase and oppression of the poor of this kingdom, and of dangerous consequence to the constitution in church and state. 2. That whoever advised the bringing over the poor Palatines into this kingdom, was an enemy to the queen and kingdom." And because a letter, written by the earl of Sunderland in the queen's name, to the council of trade, was laid before them, by which they were ordered to consider of the best methods of disposing of the Palatines; it was moved to lay the load of that matter on him in some severe votes. But this was put off for that time, and afterwards, by several adjournments delayed, till at last it was let fall. *

A Bill to repeal the Naturalization Act rejected by the Lords.] While the heat, raised by this enquiry, was kept up, the Commons passed a bill to repeal the act for a general Naturalization of all Protestants, which had passed two years before, pretending that it gave the encouragement to the Palatines to come over, though none of them had made use of that act, in order to their Naturalization. This was sent up to the Lords; and the lord Guernsey, and some others, entertained them with tragical declamations on the subject; yet, upon the first reading of the bill, it was rejected, to the great joy of all the foreign Protestants. It is remarkable if the bill was designed to prevent the French refugees from enjoying the benefit of the Naturalization, it had in some measure a contrary effect: for whereas, since the passing of the act for a general Naturalization, scarce 1500 of them took the advantage of it; above 2000 were naturalized after the motion for repealing it was made, till it was rejected by the Lords. A bill that was formerly often attempted, for disabling members of the House of Commons to hold places, had also the same fate.†

Bill for limiting the Number of Officers in the

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them, yielded expressly the point of the flag in those seas, for which alone, on other occasions, we have engaged in wars; so he had no reason to contest a lesser point: yet a censure was likewise laid on this. And this was the conclusion of the enquiries, made by the House of Lords this session." Burnet.

* Tindal.—The scheme of the Lottery was drawn by Mr. John Blount, scrivener of London, who was employed by the lords of the treasury; which being approved was inserted in the Lottery-bill. When it was advertised, on the 10th of March, that the payments would begin to be taken in at Mercers-hall on the 13th, it was found, that about 260,000*l.* had been subscribed at the bank of England, above the first payment of the whole sum of one million and a half.

* Tindal. † Ibid.

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House of Commons.] Jan. 20. The engrossed bill, for securing the Freedom of Parliaments, by limiting the number of Officers in the House of Commons; being read a third time in that House, and the question put, whether it should pass, it occasioned a debate, wherein several members in the court-interest, endeavoured, by many arguments, to shew the inconveniency of such a bill, especially at this juncture; but the country party prevailing, the question was carried in the affirmative, and the bill sent up to the Lords.

Resolutions concerning the Abuses in the Victualling.] Feb. 15. The Commons took into consideration the Report from the committee appointed to enquire into the Abuses of the Victualling; and the said Report being read, it was unanimously resolved, "That it appears to this House, that, in the management of her majesty's Brew-house, as well as in the Contracts for furnishing the Navy with Beer, there have been many notorious Imbezzlements, and scandalous Abuses, to the defrauding the public of great sums of money, to the injury and discouragement of the seamen:" and ordered, "That the Commissioners of Victualling have a copy of the said Report."

Mr. Ridge expelled the House, and an Address voted for his being prosecuted.] After this, Mr. Ridge was heard in his place to the matter of the Report relating to him, and being withdrawn, it was resolved, 1. "That it appears to this House, that Thomas Ridge, esq. a member of this House, is guilty of great Frauds and Abuses, by having contracted to furnish 5,513 tons of beer upon his own account, and 2,704 of beer in partnership with Mr. Dixon, and having received bills for the whole, although he delivered but 8,213 tons the first, and 1,269 upon the latter contract. 2. That Thomas Ridge, esq. be for the said frauds and abuses expelled this House. 3. That an humble address be presented to her majesty, that she will be pleased to give direction to her attorney-general to prosecute the said Mr. Ridge, for the said frauds and abuses*."

Further Resolutions concerning the Frauds and Abuses in the Victualling.] Feb. 22. The Commissioners of the Victualling attending the House of Commons, according to order, they were called in, and presented to the House their Representation upon the Report made by the Committee appointed to examine the Abuse complained of in the Victualling: which Representation was ordered to lie upon the table until the Report of the said Committee be taken into consideration, which was appointed to be on the Tuesday following. Accordingly, on the 27th, the House resumed the farther consideration of the Report from the Committee, appointed to enquire into the Abuses of the Victualling, and came to the following Resolutions: 1. "That it appears to this House, That Mr. Dixon, a brewer at Portsmouth, is guilty of great frauds and abuses, in having contracted to furnish 2,704 tons of beer for the last year's service, in partnership with Mr. Ridge, and receiving bills for the whole, when he had delivered but 1,269 tons. 2. That Mr. Player, another brewer at Portsmouth, is guilty of great frauds and abuses, in having contracted to furnish 7,724 tons of beer for the last year's service, and receiving bills for the whole, when he had delivered but 4,164 tons. 3. That Mr. Rolfe, a brewer at Harwich, is guilty of great frauds and abuses, in having contracted to furnish 2,782 tons of beer for the last year's service, and receiving bills for the whole, when he had delivered but 1,102 tons. 4. That Mr. Best, a brewer at Chatham, is guilty of frauds and abuses, in having contracted to furnish 455 tons of beer for the last year's service, and receiving bills for the whole, when he had delivered but 331 tons. 5. That Mr. Tyhurst, a brewer of Rochester, is guilty of great frauds and abuses, in having contracted to furnish 883 tons of beer for the last year's service, and receiving bills for the whole, when he had delivered but 126 tons. 6. That Mr. Kelley, a brewer of Deal, is guilty of great frauds and abuses, in having contracted to furnish 1,424 tons of beer for the last year's service, and receiving bills for the whole, when he had delivered but 202 tons. 7. That an humble Address be presented to her majesty, that she will be pleased to give directions to her attorney-general to prosecute the said Mr. Dixon, Mr. Player, Mr. Rolfe, Mr. Best, Mr. Tyhurst, and Mr. Kelley, for the said frauds and abuses. That captain Whitehall, agent-victualler at Dover, is guilty of a great misdemeanour, in dispensing with Mr. Kelley's swearing to the affidavit for delivery of beer, and in being privy to the frauds and abuses committed by the said Mr. Kelley. 9. That Mr. Wilkins, agent-victualler at Portsmouth, is guilty of a great misdemeanour, in

* "However, this gentleman was not prosecuted, but continued to serve the navy as before; for, upon examination, it appeared that in fact the public suffered no wrong. The case stood thus: the service of the fleet had of late lain for the most part in the Mediterranean, where the difference of climate rendered the beer sent from hence useless; and the seamen, being not able to drink it there, required wine and water, which is ordinarily used on board the fleet in those parts. But as the victualling-office can, in their accounts, charge beer only, it was allowed to the seamen by the office to take money of the brewer, wherewith to buy wine in the Streights. Thus, though the beer was not delivered, and the seamen drank wine, yet the nation paid for no more than the allowance of beer. Many other brewers were complained of on the same account, but it was plain this was only a shew of zeal, and a seeming discovery of fraudulent practices, when in reality there was no such thing, or at least the abuse was such, that it was suffered to go on as avowedly as ever." Tindal.

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certifying the delivery of much greater quantities of beer than were delivered. 10. That Stephen Moxley, servant at Harts-horn brew-house, is guilty of a great crime, in being privy to the embezzling great quantities of beer and casks.' 11. That Mr. Horsington, under-clerk at the Harts-horn brew-house, is guilty of a great misdemeanour, in giving Mr. Stibbs a certificate to defraud the queen of 25 tons of beer. 12. That Noah Overing, master-brewer, Bernard Goddard, deceased, late clerk of the brew-house, and Thomas James, clerk of the check at the Harts-horn brew-house, have been guilty of very great misdemeanours, in signing certificates for great quantities of malt and hops, which were neither answerable to the sample, nor fit for use."

Then the Representation of the Commissioners of Victualling, which they had delivered in upon the said Report, being read, it was likewise Resolved, 13. "That the Commissioners for the Victualling of her majesty's Navy, have been guilty of great negligence and remissness in their duty; and that the loss the public has sustained by the many frauds and abuses that have been committed in the victualling of her majesty's navy, has been chiefly occasioned by a notorious mismanagement in that office. 14. That the said frauds and abuses have been one great occasion of the heavy debt that lies upon the navy. 15. That the persons who have been instrumental in discovering the said frauds and abuses, have well-deserved her majesty's reward and encouragement."

After which it was ordered, That the report from the committee appointed to enquire into the Frauds and Abuses committed in the Victualling her majesty's Navy, with the Resolutions and Order of this House thereupon, be printed.

Bill for qualifying Members of the House of Commons passed both Houses.] Feb. 16. An engrossed Bill 'for securing the Freedom of Parliament, by the further qualifying the members to sit in the House of Commons,' was read the third time, and several amendments were made, by the House, to the Bill; after which the same was passed, and sent up to the Lords, who, on the 22d, gave their concurrence to it.*

Message from the Convocation relative to the want of Churches in London.] March 1. The Speaker of the House of Commons acquainted the House, That there had been with him, the day before, in the evening, the Prolocutor of the Lower House of Convocation, with Dr. Stanhope, dean of Canterbury; Dr. Stanley, archdeacon of London; Dr. Smalridge, proctor for the chapter of Litchfield; and Dr. Delaune, proctor for the diocese of Oxford; and brought him an Order and a Message, which were read, and are as follow, viz.

'Feb. 28, 1710. It was ordered by the 'Lower House of Convocation, that the Prolocutor, attended by Dr. Stanhope, dean of 'Canterbury; Dr. Stanley, archdeacon of 'London; Dr. Smalridge, proctor for the 'chapter of Litchfield; and Dr. Delaune, proctor for the diocese of Oxford, should wait 'upon Mr. Speaker of the honourable House 'of Commons, and impart him the following 'Message, agreed to by the said House, *nem. con.*

THO. ROUSE, Actuar'
Domus Infer' Convocationis.'

'Mr. Speaker;

'The Lower House of Convocation have, 'with great satisfaction, taken notice of an instruction given by the honourable House of 'Commons to a Committee, [appointed to 'examine a Petition of the minister and churchwardens of Greenwich, praying relief for the 'rebuilding of that church] to consider what 'churches are wanting within the cities of 'London and Westminster, and suburbs thereof, and report the same to the House.—It was 'in our thoughts to have done what in us lay 'towards setting forward so pious a design; 'but we are glad to find ourselves happily prevented by the zeal of that honourable House, 'which, at the time that they placed you in 'the chair, gave us an earnest of their entire 'disposition, to do every thing that might be 'for the honour and advantage of the church of 'England.—We do, in the name of the whole 'clergy of this province, return our unanimous 'thanks to the honourable the Commons, for 'this instance of the affectionate regard they 'have shewn to the welfare of the established 'church, and the common interest of religion. '—Mr. Speaker; I am directed by the 'Clergy of the Lower House of Convocation, 'to signify their readiness to promote the work 'now in view, by imparting such lights as they 'are able to afford, in relation to the extreme 'want of Churches, in and about these populous cities, under which we at present labour.

'FRANCIS ATTERBURY, Prolocutor.'

* "The design of this bill was to exclude courtiers, military men, and merchants, from sitting in the House of Commons, in hopes, that, this being settled, the land-interest would be the prevailing consideration in all their consultations. They did not extend these qualifications to Scotland; it being pretended, that, estates there being generally small, it would not be easy to find men so qualified capable to serve. This was thought to strike at an essential part of our constitution, touching the freedom of elections: and it had been, as often as it was attempted, opposed by the ministry, though it had a fair appearance of securing liberty, when all was lodged with men of estates: yet our gentry was become so ignorant, and so corrupt, that many apprehended the ill effects of this: and that the interest of trade, which indeed supports that of the land, would neither be understood nor regarded. But the new ministers resolved to be popular with those who promoted it; so it passed, and was much magnified, as a main part of our security for the future." Tindal.

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Resolutions of the Commons thereupon.] Hereupon, the Commons resolved, "That this House will receive all such Informations, as shall be offered to them from the Clergy of the Lower House of Convocation, with relation to the want of Churches in the cities of London and Westminster, and suburbs thereof. 2. That this House will, in all matters immediately relating to Religion, and the welfare of the established Church, have a particular regard to such applications, as shall at any time, be made to them from the Clergy in Convocation assembled, according to the ancient usage, together with the parliament."

The Commons inclined to a further Resumption of King William's Grants.] The same day, the House, being somewhat perplexed how to find ways and means to raise the great Supply granted to the queen, and, at the same time make provision for the deficient Funds, and national debts, bethought themselves of a further Resumption of king William's Grants: and ordered a Bill to be brought in, 'To appoint Commissioners to examine the value of all lands and other interests granted by the crown, since the 13th of February, 1688-9, and upon what considerations such Grants were made, in order to resume the same, and to apply them to the use of the public;' and Mr. Strangeways, Mr. Shippen, and Mr. Lockhart were appointed to prepare and bring in that Bill.

Address of both Houses concerning Guiscard's Attempt upon Mr. Harley, at the Council Table.] March 9. The Commons resolved to present an Address to the Queen, concerning the Attempt * committed on the person of Mr. Harley; which being immediately drawn up and sent to the Lords, for their concurrence, their lordships readily agreed thereto. However,

* "In the House of Commons there appeared a new combination of Tories of the highest form, who thought the court was yet in some management with the Whigs, and did not come up to their height, which they imputed to Mr. Harley; upon which account they began to form themselves in opposition to him, and expressed their jealousy of him on several occasions, sometimes publicly. But an odd accident, that had almost been fatal, proved happy to him. The marquis de Guiscard enjoyed his pay as colonel, till some time after the battle of Almanza; when that ceased, he solicited to have a settled pension in the time of the late ministry: but his intimacy with some persons, who had been removed from their employments, particularly Mr. St. John, with whom he entered into a strict confidence and community of pleasures, did not at all promote his affair. When Mr. St. John, by the great change at court, was advanced to the post of Secretary of State, the marquis expected to have found a great support in him. But as all friendships, that are not grounded on virtue, are ever short-lived, the secretary, who had some time before quarrelled with the marquis about a mistress, or rather a child, which neither of them would own, was hardly prevailed with to speak in his favour. However, upon his faint recommendation, the queen ordered him a pension of 500*l.* a year; but Mr. Harley, who never liked Guiscard, not only reduced his pension to 400*l.*, but declined to have it put upon a fixed establishment. The marquis endeavoured several times to apply to the queen for redress; but being denied access, and highly disgusted with the usage he received from those very persons, whom he had looked upon as his intimate friends, he tried to make his peace with the court of France, and, in order to that, wrote to M. Moreau, a banker in Paris. His letter being directed to a person in Portugal, under the cover of the earl of Portmore, his lordship, suspecting something, opened one of the packets, and, finding in it a dangerous correspondence, sent it back to his lady, the countess of Dorchester, who delivered it to Mr. Harley; and by her means another packet, which Guiscard would have transmitted to Portugal, was intercepted. It was pretended by some, that those letters contained only loose reflections on the weakness and mean capacity of the present ministry; but, whatever was the purport of them, the marquis was, on the 8th of March, apprehended in St. James's park for high-treason, by virtue of a warrant from Mr. secretary St. John. He was so surprized and disordered, that he desired the messenger, who disarmed him, to kill him; and, being brought to the Cockpit in the height of despair, he took the resolution to make his ruin fatal to those who occasioned it; and, seeing in the room where he was confined, a penknife, which lay among pens in a standish, he took it up unperceived by the messengers, who watched him. A committee of council being summoned on this extraordinary occasion, and the lord-keeper Harcourt, the earl of Rochester, the dukes of Buckingham, Newcastle, and Ormond, earl Paulet, Mr. Harley, and the three secretaries of state, the duke of Queensberry, the lord Dartmouth, and Mr. St. John, being met, the marquis was brought before them to be examined. Mr. St. John asked him several questions about his corresponding with France; to which he returned evasive answers, with an assured countenance. But when Mr. St. John asked him, Whether he knew Mr. Moreau, banker at Paris? producing, at the same time, the intercepted letters; the marquis appeared very much surprized. Finding himself discovered, and despairing of a pardon, he resolved to put his black design in execution. It was the general opinion, that his design was to make his first attempt upon Mr. St. John; which appears the more probable, because, as soon as he thought himself in a manner convicted of the crime for which he was apprehended, he desired to speak with him in private? but Mr. Secretary told him, that was

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the Queen being still indisposed, it was the 13th before both Houses waited upon her majesty with the following Address:

"Most Gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons of Great Britain in parliament assembled, have, to our great concern, been informed of a barbarous and villainous Attempt, made upon the person of Robert Harley, esq. chancellor of your majesty's Exchequer, by the marquis de Guiscard, a French Papist, at the time when he was under examination for treasonable practices, before a committee of your majesty's council.

"We cannot but be most deeply affected, to find such an instance of inveterate malice against one employed in your majesty's council, and so near your royal person; and we have reason to believe, that his fidelity to your majesty, and zeal for your service, have drawn upon him the hatred of all the abettors of popery and faction.

"We think it our duty, upon this occasion, to assure your majesty, that we will effectually stand by and defend your majesty, and those who have the honour to be employed in your service, against all public and secret attempts of your enemies; and we most humbly beseech your majesty, that you will be pleased to take all possible care of your sacred person, on whose life the welfare and happiness of your people, as well as the liberties of Europe entirely depend.

"And we do in all humility represent to your majesty, that one effectual means, conducing to the safety of your majesty's royal person, will be to give such directions, as, in your great wisdom, shall seem most proper, for causing papists to be removed from the cities of London and Westminster."

The Queen's Answer.] Her majesty's Answer to this Address was;

"My Lords and Gentlemen, I take this Address very kindly from you, on the occasion of that barbarous attempt upon Mr. Harley, whose zeal and fidelity in my service must appear yet more eminently, by that horrid endeavour to take away his life, for no other reason that appears, but his known opposition to popery and faction.

"Your warm concern for the safety of my

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impracticable and unusual: that he was before the committee of the council, as a criminal; and, if he had any thing to offer, it must be said to them all. The marquis persisting in his desire to speak only to Mr. St. John, they went to ring the bell, to call in the messengers to carry him away; which he observing, said, 'Voilà qui est dur, pas un mot.' 'That's hard; 'not one word.' Being disappointed in his design against Mr. St. John, who sat out of his reach, he stepped towards the table, as if he intended to say something to Mr. Harley; and, stooping down, said, 'J'en veux donc à 'toi.' 'Then have at thee;' and stabbed him about the middle of the breast; but the penknife, lighting on the bone, broke about half an inch from the handle; which Guiscard not perceiving, redoubled the blow, and with a great force struck Mr. Harley not far from the first wound. When Mr. St. John saw Mr. Harley fall, he cried out, 'The villain has 'killed Mr. Harley;' and, drawing his sword immediately, as did also the duke of Newcastle, and some others, they gave Guiscard several wounds. But when they saw Mr. Harley get up, and heard earl Paulett cry out, not to kill Guiscard, they gave over making passes at him. Some of the privy-counsellors secured themselves with chairs against the rage of the assassin, who seemed to threaten them all. Others ran out of the room to call for help; and the messengers and door-keepers having rushed in, and offering to lay hold on Guiscard, he struggled for a while, and overthrew some of his assailants: but, at last, Wilcox, one of the queen's messengers, a very strong man, grappled with him, and gave him several bruises, particularly one in the back, which was afterwards judged to have occasioned his death.

"Mr. Harley's wound was presently searched, and appeared to be a very slight one, yet he was long in the surgeon's hands. Some imputed this to an ill habit of body; others thought it was an artifice, to make it seem more dangerous than indeed it was. Guiscard's wounds were deeper, and not easily managed; for at first he was sullen and seemed resolved to die; yet after a day he submitted himself to the surgeons; but did not complain of a wound in his back till it gangrened; and of that he died. It was not known what particulars were in his letters, nor was it known what he confessed.—This accident was of great use to Mr. Harley: for the party formed against him were ashamed to push a man, who was thus assassinated by one, that was studying to recommend himself to the court of France, and who was believed to have formed a design against the queen's person; whose health was at this time much shaken, she having had three fits of an ague, and the last a severe one; but the progress of the disease was stopped by the bark.

"The day after Mr. Harley received his wound, both houses of parliament agreed upon an Address to the queen, &c. And, when Mr. Harley came first to the House of Commons after his recovery, he was by their order congratulated upon it by Mr. Bromley, their Speaker, in a set flattering speech, wherein he prayed, 'That the same providence, that had 'wonderfully preserved him from some unpa-'ralleled attempts, and had raised him up to 'be an instrument of great good at a very cri-'tical juncture, when it was much wanted, 'might continue still to preserve so invaluable 'a life, for the perfecting of what was so hap-'pily begun; that they might owe to his coun-'sels, and to his conduct, the maintenance and 'firm establishment of our constitution in 'church and state.'" Tindal.

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person and the defence of those employed in my service, is very grateful to me; and I shall always continue my care for the welfare and happiness of my people, by using all means that may most effectually conduce to those ends, and particularly, by giving the proper directions for removing Papists from the cities of London and Westminster, according to your desire.

"I think it would be reasonable to make a law to punish with death such villainous attempts on the lives of magistrates, in the lawful execution of their office, though by God's providence, the mischiefs designed do not take effect."

The said Answer being afterwards reported to the House, it was thereupon unanimously resolved, "That an humble Address be made to her majesty to return the humble thanks of this House for her majesty's most gracious Answer to the Address of both Houses of parliament, and to assure her majesty, That this House will provide a bill to pass into a law, to punish with death such villainous attempts; and Ordered, "That leave be given to bring in a bill to make an attempt on the life of a privy-counsellor to be felony without benefit of the clergy; and that Mr. Attorney General, Mr. Cæsar, sir Gilbert Dolben, Mr. Manley and Mr. Hungerford do prepare and bring in the same."

Report concerning the Bill for stating the Public Accounts.] March 12. Sir Simon Stuart reported from the committee of the whole House, to whom the bill 'For taking, examining, and stating the Public Accounts of this kingdom' was committed, that they had left the blanks in the bill for the Commissioners Names, and for the title of the Bill, to be filled up by the House, and had made several Amendments, which he read, and afterwards delivered in at the table; where they were read and agreed to by the House. Then it was ordered, "That the Bill with the amendments be engrossed; and resolved, 1. That the number of Commissioners be seven. 2. That no person be a Commissioner who hath any office of profit, or is accountable to her majesty. 3. That the Commissioners may be members of this House. And 4. That the Commissioners be chose by way of balloting." After which it was ordered, "That the members of the House should prepare lists to be put into glasses of 7 persons names to be Commissioners for taking, examining and stating the public accounts of this kingdom." Which being done accordingly, a Committee was appointed to examine the Lists: And Mr. Scobel reported, that the majority fell upon the following persons, viz.

The hon. Henry Bertie, esq. - - -	246
George Lockhart, esq. - - - - -	224
Salway Winnington, esq. - - - -	221
Francis Annesley, esq. - - - - -	217
Clobery Bromley, esq. - - - - -	194
Thomas Lister, esq. - - - - -	168
William Shippen, esq. - - - - -	151

Complaint against Sir James Mountague.] On Monday, the 19th of February, Mr. Eversfield, knight of the shire for the county of Sussex, made a Complaint to the House, of a Letter, which, he was informed, had been written by sir James Mountague, member for the city of Carlisle, in order to promote his election there; and which, he conceived, reflected on her majesty's honour. Being asked, Whether he had seen the original of that letter? He said he had not, but only a copy of it; for the truth of which he was ready to produce his voucher. Sir James Mountague denying the fact, and offering to prove the contrary, the enquiry into that matter was put off to the next day; when the House being informed, That colonel Gledhill was at the door, and had something to offer to the House; he was called in, and, at the bar, charged sir James Mountague with writing the letter before-mentioned, reflecting upon the honour of her majesty. This occasioned a long and warm debate, and sir James Mountague still denying the writing of such a letter; and desiring that the bishop of Carlisle, to whom he had, indeed, written a letter about his election, and who waited in the lobby, might be examined about it; colonel Gledhill, on the other hand, desired time to produce his witnesses, who, he said, were in the country, to prove his charge. Whereupon, by a majority of 154 voices against 151, it was ordered, That that matter be taken into consideration on that day 3 weeks.*

* "During that interval," (says the author of the Political State) "I made it my business to find out the ground of this Accusation, which, if my informations be right, was only this; when the late election for Carlisle, where sir James Mountague used to be chosen and now stood candidate, came on, the friends of his competitors, (as it is usual in such cases, to take all advantages) gave out, That sir James being removed from his place of Attorney-General, the chusing of him again might be interpreted a disrespect to the court. Sir James being informed of this suggestion, wrote to his friend, the bishop of Carlisle, 'That though the queen 'had thought fit to put another in his place, yet 'he was so far from having incurred her majesty's 'displeasure, that, on the contrary, her majes-'ty had graciously been pleased, in considera-'tion of his former services, to bestow on him 'a pension of 1,000*l.* per ann.' This letter being communicated to some of the electors, sir James Mountague's opponents took from thence occasion to object, That since he had a place of profit, meaning the pension, he could not be chosen member: of which sir James having notice, he wrote a second letter to the bishop of Carlisle, to remove that groundless objection; intimating, 'That he had no place of profit, but only a pension for life, which qualified him to be chosen.' Sir James Mountague's friends having thought it necessary to have this letter dispersed, colonel Gledhill took a copy of it, and shewing his notes, afterwards, to some of his acquaintance, he was told, he had omitted the most remarkable part of the

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On the 9th of March, the Commons being informed, That the queen had ordered the officers of her army in Spain, to repair to their commands there, resolved to address her majesty, That she would be pleased to give leave to colonel Gledhill to stay some days longer: which her majesty readily granted.

The Bishop of Carlisle censured for dispersing Sir James Mountague's Letters.] On the 14th, the House resumed the consideration of the Complaint; and the colonel was called in, and some witnesses were examined, as well on his part, as of sir James's: who being withdrawn, and the House being informed, That the lord bishop of Carlisle, (who had been mentioned in the evidence given at the bar, in relation to a Letter written to him by sir James Mountague, and several copies of part thereof transcribed by his lordship, and sent to several persons) desired to be admitted to be heard; he was admitted in, and heard accordingly. And his lordship being withdrawn, sir James Mountague was heard likewise. This occasioned a warm debate, that lasted till late at night: after which the Commons resolved, "That it appears to this House, That William lord bishop of Carlisle had dispersed several copies of a Letter, pretended to have been received from sir James Mountague (a member of this house) in order to procure sir James Mountague to be elected a citizen of the city of Carlisle, reflecting on the honour of her majesty; and, by concerning himself in the said election, hath highly infringed the liberties and privileges of the Commons of Great Britain." Then the question being put, That colonel Gledhill has made good his charge against sir James Mountague; it passed in the Negative. But, nevertheless, it was Resolved, That colonel Gledhill had sufficient grounds for bringing the said charge before this House.

Col. Fitz-Patrick taken into custody, for challenging Major-General Peirce, a Member of the House.] March 19. A complaint being made to the Commons, that lieut.-colonel Fitz-Patrick had challenged major-general Peirce, (a member of this House, for words he had spoke in the debates of this House) in breach of the privilege of this House: It was ordered, That the said lieut.-colonel Fitz-Patrick (for having challenged major-general Peirce, a member of this House, for words he had spoke in the debates of this House) was guilty of a breach of the privilege of this House; and ordered, That lieut.-col Fitz-Patrick be taken into the custody of the Serjeant at Arms.

The Speaker's Son dies; whereupon the Commons adjourn.] March 20. The House being informed, that Clobery Bromley, esq. son to the Speaker, died that morning; out of respect to the father, and to give him time, both to perform the funeral rites, and to indulge his just affliction, they thought fit to adjourn to Monday the 26th.

The Queen's Message to the Commons for the building of New Churches.] March 29. Mr. Secretary St. John acquainted the Commons, That he had a Message from her majesty; and he presented the same to the House; which was as follows:

"ANNE *R.*

"Her majesty having received an Address from the archbishop, bishops, and clergy of the province of Canterbury, in Convocation assembled, to recommend to the Parliament the great and necessary work of building more Churches within the bills of mortality, is graciously pleased to approve so good and pious a design: and does, accordingly, very heartily recommend the carrying on the same, to this House, particularly in and about the cities of London and Westminster; and does not doubt but effectual care will be taken in this matter, which may be so much to the advantage of the Protestant religion, and the firmer establishment of the Church of England."

Resolution of the Commons thereupon.] Whereupon the Commons resolved, "That the humble Thanks of this House be returned to her majesty, for her majesty's most gracious Message, in recommending so good and pious a design, as the building of Churches in and about the cities of London and Westminster; and to assure her majesty, that this House will enable her majesty to make an effectual provision for the carrying on so good and necessary a work:" And appointed a Committee to draw up an Address upon the said Resolution, and upon the debate of the House.

Vote of the Commons for building 50 New Churches in London and Westminster.] April 6. Mr. Annesly reported from the Committee, to whom the Petition of the minister, churchwardens, and several other inhabitants of Greenwich, in the county of Kent, and several other Petitions, were referred; and who were also to enquire what monies remain in the hands of the Commissioners for rebuilding the Cathedral Church of St. Paul's, and consider what the produce of the duties in being, appropriated for that purpose, may amount to for the time to come, and make an Estimate of what will be necessary for finishing and adorning the said Church, and other the purposes in the acts mentioned, for building the Cathedral Church of St. Paul's; and also to consider what Churches are wanting within the cities of London and Westminster, and suburbs thereof, and report the same to the House; That the Committee had considered the several matters to them referred, and had directed him to report how the same appeared in relation thereunto, and had come to a Resolution, which they had also directed him to report to the House, and he read

letter, viz. 'That the queen had given sir James 'Mountague a pension, to enable him to carry 'his election.' Whereupon he reformed his notes according to his wrong information, and shewed them to some parliament men, who, out of respect to the queen, thought it their duty to lay that matter before the House of Commons, in order to wipe off the supposed scandal cast on her majesty's honour."

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the said Report and Resolution, and afterwards delivered the same in at the table, where the same were read, and the Resolution agreed to, viz. "That, in the several parishes in and about the suburbs of the cities of London and Westminster, 50 New Churches are necessary to be erected for the reception of all such as are of the Communion of the Church of England, computing 4,750 souls to each Church:" and then the said Report was referred to the consideration of the Committee of the whole House, who were to consider farther of the Supply.

The Commons' Address thereon.] April 9. The Speaker, with the House, waited on her Majesty, at St. James's, with the following Address:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, have, with the utmost satisfaction, received your majesty's gracious Message, recommending to us the great and necessary work of building new Churches, in and about the cities of London and Westminster.—We are sensible how much the want of them hath contributed to the increase of Schism and Irreligion, and shall not fail therefore to do our parts towards the supplying that defect, being entirely disposed to promote every thing that is for the interest of the established Church, and the honour of your majesty's reign.—Neither the long expensive War in which we are engaged, nor the pressure of heavy debts, under which we labour, shall hinder us from granting to your majesty whatever is necessary to accomplish so excellent a design, which, we hope, may be a means of drawing down blessings from heaven on all your majesty's other undertakings, as it adds to the number of those places, where the prayers of your devout and faithful subjects will be daily offered up to God, for the prosperity of your majesty's government at home, and the success of your arms abroad."

The Queen's Answer.] To which her majesty returned this Answer:

"Gentlemen, your Address is extremely acceptable to me, as it is a proof of your zeal for the interest of the established Church, and for the advancement of religion: I will take care that what you grant, shall in the most speedy and effectual manner, be applied to the good purpose for which it is intended."

Bill to prevent Bribery in Elections dropped.] April 16. The Commons read the third time an engrossed Bill 'For the better preventing 'Bribery and Corruption, and other undue 'practices in Elections of Members to serve in 'parliament:' And the Speaker having opened the Bill, several amendments were made to it: but a great debate arising thereupon, the same was adjourned to the next day; when the question being put, that the Bill do pass, it was carried in the Negative.

Commissioners for resuming King William's Grants chosen.] April 17. The Commons proceeded to the choice of Commissioners for examining the Value of Lands, and other interests granted by the Crown, since the 13th of February, 1688-9, and upon what considerations such Grants were made, in order to resume the same, and apply them to the use of the public; and the clerk and clerk assistant went on each side the House with glasses, to receive from the members, the Lists of persons names to be Commissioners. A Committee being afterwards appointed to examine the Lists, they made their report the 18th, and it appeared that the following persons had the majority, viz. Sir Simeon Stuart, 277; Mr. Eversfield, 270; Mr. Hind Cotton, 212; Mr. Bulteel, 167; Mr. Hewetson, 157; Mr. Blackmore, 155; Mr. Wrightson, Mr. Mackenzie, 151.—The two last having an equal number of Votes, the Commons balloted again for a Commissioner on the 21st, and upon examining the Lists, it was found, that Mr. Wrightson had the majority.

The Resumption Bill rejected by the Lords.] April 24. The Commons read the third time, the Bill 'For resuming the Grants made by 'the crown since the 13th of February, 1688,' and, having inserted in it the Commissioners Names, resolved, That the Bill do pass, and sent it to the Lords for their concurrence. But, on the 30th of April, their lordships rejected that Bill; which, by many, was thought partial, and injurious to the memory of the late king William.*

The Queen's Message to the Commons concerning the Emperor's Death, and to quicken their Proceedings.] April 20. Mr. Secretary St. John acquainted the House, That he had a Message from her majesty; and he presented the same to the House, which Mr. Speaker read, and is as follows:

"ANNE R.

"Her majesty is pleased to acquaint this House with the ill news she hath received of the Emperor's death; and, being sensible of the consequence this great loss may be of to the allies; how disheartened some of them may be

* "The Tories still continued to pursue the memory of king William; they complained of the grants made by him, though these were far short of those, that had been made by king Charles the 2nd; but that they might distinguish between those, whom they intended to favour, and others, against whom they were set, they brought in a bill, impowering some persons to examine all the grants made by him, and to report both the value of them, and the considerations upon which they were made: this was the method, that had succeeded with them before, with relation to Ireland; so the bringing in this bill was looked on, as a sure step, for carrying the resumption of all the grants, that they had a mind to make void. When the bill was sent up to the Lords, the design appeared to be an unjust malice, both against the memory of king William, and against those who had best served him; and therefore, upon the first reading, the bill was rejected." Tindal.

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on the one hand, and how diligent France will be on the other, to improve every accident to their own advantage, her majesty is desirous to let you know, that, immediately, on the first news of the Emperor's sickness, she came to a resolution to support the interest of the House of Austria, in this conjuncture, and to use her utmost endeavours to get the king of Spain made Emperor, in which the States-General have likewise concurred with her majesty; and, since that, her majesty hath taken the most proper means to engage all those who have a share in this Election, and are in the interest of the common cause, to join with her, in bringing this great work to a good issue, and she hath an entire confidence in the affection and duty of her parliament, that, with their assistance, under the protection and blessing of Almighty God, she shall be enabled to make a happy conclusion of this War, in a safe and honourable Peace.—The season of the year, and the length of time that has passed since your meeting, will make you all wish, that you may be at liberty to attend the public, as well as your own private affairs, throughout the kingdom; and therefore her majesty does recommend to you, so to hasten your consultations about all the public concerns, that her majesty may put a speedy end to this session."

Vote thereon.] Hereupon it was unanimously resolved, "That an humble Address be presented to her majesty, to return her majesty the humble thanks of this House for her majesty's most gracious Message, and to assure her majesty, that this House is truly sensible of the great loss the alliance hath sustained by the death of the Emperor, and of the early and wise care her majesty has been pleased to take, to prevent the ill consequences thereof, by resolving to support the interest of the House of Austria, and by endeavouring to get the king of Spain elected Emperor. And farther, to assure her majesty, that she may safely place an entire confidence in the duty and affection of this House, which cannot be discouraged by this misfortune, from supporting her majesty in all those measures, she in her great wisdom shall judge proper, to bring this war to an happy conclusion, by a safe and honourable Peace; and that this House will give all possible dispatch to the public business depending before them, that so her majesty may put a speedy end to this session."

Address of both Houses thereon.] A Committee being appointed to draw up an Address upon this Resolution, they withdrew immediately into the Speaker's chamber for that purpose; and soon after sir Thomas Hanmer, their chairman, reported the said Address; which, being agreed to, was sent to the Lords for their concurrence. The Lords having readily concurred, the same evening both Houses waited on the queen with the following Address:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons of Great Britain in parliament assembled, beg leave to return your majesty our most humble thanks for your majesty's most gracious Message. We are truly sensible of the great Loss the Alliance hath sustained by the death of the Emperor; and do, with all duty, acknowledge the early and wise care your majesty has been pleased to take, to prevent the ill consequences thereof, by resolving to support the interest of the House of Austria, and endeavouring to promote the election of the king of Spain to the empire, —Your majesty may safely place an entire confidence in our duty and affection, and may rest assured that we cannot be discouraged, by this, or any other misfortune, from supporting your majesty in all the measures, which your majesty in your great wisdom shall judge proper, to bring this war to a happy conclusion by a safe and honourable Peace. And being truly convinced, how necessary it is to give all possible dispatch to the public business, we will use our utmost diligence in every part of it depending before us, that your majesty may have the satisfaction of putting a speedy end to this session."

The Queen's Answer.] The Queen's Answer to this Address was,

"My lords and gentlemen, I thank you very heartily for this Address; it is of great importance, that the world shall know, that both Houses of parliament do so unanimously approve the measures, I have taken on this occasion of the Emperor's death, which will very much encourage our allies to continue united in the common cause."

Report concerning the Imprest Accounts.] On the 4th Mr. Auditor Harley had reported from the Committee to whom it was referred to enquire how far the several Imprest Accountants had passed their respective Accounts, and to consider of methods for the more effectual and speedy compelling the said accountants to pass their accounts; and to obviate all irregularities and unnecessary delays in the same, the matter as it appeared to them, which they had directed him to report to the House; and he read the same in his place, and afterwards delivered in the Report at the table.

Resolutions of the Commons thereupon.] Hereupon it was ordered, That it should be taken into consideration the Tuesday following; on which day it was further put off, first to the 17th and then to the 24th, of that month; when the Commons came to the following Resolution, "That, of the moneys granted by parliament, and issued for the public service to Christmas, 1710, there were 35,302,107*l.* 18*s.* 9*d.** for

* "This was a vast sum; but, to make it up, some accounts in king Charles's time were thrown into the heap; the lord Ranelagh's accounts of the former reign were the greatest part; and it appeared, that in no time accounts were so regularly brought up, as in the queen's reign. Mr. Bridges's accounts, of 14 or 15 millions, were the great item, of which, not above half a million was passed: but there

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a great part whereof, no Accounts had been laid before the auditors, and the rest not prosecuted by the accountants, and finished.'

Then the further consideration of that Report was put off till the 28th, when, after some debate, it was resolved, "That the not compelling the several Accountants duly to pass their respective Accounts, had been a notorious breach of trust in those that, of late years, had had the management of the treasury, and an high injustice to the nation." Then a motion being made and the question put, That the

were accounts of above 11 millions brought in, though not passed in form, through the great caution and exactness of the duke of Newcastle, at whose office they were to pass; and he was very slow, and would allow nothing, without hearing counsel on every article. The truth is, the methods of passing accounts were so sure, that they were very slow; and it was not possible, for the proper officers, to find time and leisure to pass the accounts that were already in their hands. Upon this, though the earl of Godolphin had managed the treasury; with an uncorruptedness, fidelity, and diligence, that were so unexceptionable, that it was not possible to fix any censure on his administration; yet because many accounts stood out, the Commons passed several angry votes on that subject: but, however since nothing had appeared in all the Examination made by the committee, that reflected on him or on any of the Whigs, they would not publish the Report, though it was ordered to be printed; for by that it would have appeared who had served well, and who had served ill.

' "Mr. Maynwaring, the other Auditor of the Imprest, has given the true state of these Thirty-five Millions, the chief articles of which are as follows:

	£.	s.	d.	£.	s.	d.	£.	s.	d.
The earl of Ranelagh's Charge is				21,015,618	19	4¼			
Discharge, — By Accounts actually past	14,593,665	4	2¼						
By Accounts rendered or lying before the Auditors	6,420,182	6	8¼						
				21,013,847	10	10¼			
Remains to be accounted for							1,771	8	6
The hon. James Brydges, esq.; his Charge is				15,374,689	1	11¼			
Discharge, — By Accounts actually past	956,789	6	5¼						
By Accounts rendered or lying before the Auditors	8,097.492	8	7¼						
				9,054,281	15	0¼			
By Accounts delivered since Christmas, 1710				3,227,778	2	6			
Remains to be accounted for							3,092,629	4	5
Lord Falkland's Charge is				3,094,723	7	11¼			
Discharge, — By Accounts actually past	1,122,133	5	11						
By Accounts lying before Auditors	1,465,368	5	3¼						
				2,587,501	11	2¼			
Remains to be accounted for							507,221	16	8¼
Sir Thomas Littleton's Charge is				18,382,750	1	5¼			
By Accounts actually past, or ready for declaration	7,559,382	5	3¼						
By the Accounts lying before the Auditors, under the examination of the Navy-board, and by money paid over to R. Walpole, esq.	10,770,179	19	0¼						
				18,329,562	4	4			
Remains to be accounted for							53,187	17	1¼

" In the same manner he states the accounts of Atkinson, Nutting, Mason, Povey, Micklethwayte, and Savery; by which it appears, that, of the thirty-five millions, above thirty millions were accounted for, though not all passed, and that the total to be accounted for, amounted only to 4,330,135*l.* which, as Mr. Maynwaring observes, was much short of a year's supply. He says further on this subject, ' no accountant is obliged, by the ' course of the exchequer, to render his ac- ' count under fifteen months, nor some under ' eighteen; yet this vote takes in all accounts ' to the first meeting of the committee; but ' there is no mention made from what period ' of time they did commence. To have been ' particular, in every respect, was too much for ' the compass of a vote; so that there are ac-

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farther consideration of the said Report be adjourned, it passed in the negative; and, after a further debate, it was resolved, "That the several Accountants who had neglected their duty in passing their Accounts, ought no longer to be entrusted with the receiving the public money." And Ordered, that the said Report be printed.*

'counts from king Charles, king James, and 'king William's reign, in the principal branches 'of the expence in all the revenue brought in, 'to make up and swell the general account; 'and this is, by many thousands of people, 'without doors, imputed to the late ministers.' He then exposes the partiality of the House of Commons, of which he was himself a member, in ordering so unjust a Vote to be printed: adding, 'and now if I may be allowed to suppose what I think I have fully proved, that 'many irregularities, and unavoidable delays, 'attend the passing of some accounts, which 'no care or industry can prevent. If it happen, that the nature of the services, and the 'method of payment in some offices, being inconsistent with the course of the exchequer, 'require privy-seals, and are the work of 'longer time than is limited for passing accounts; if it appears, that these irregularities, 'incident to accounts, are yet necessary for 'the accommodation of the service, and not 'to be avoided without infinite prejudice to 'the management; and if it appears, that the 'security of the public does not entirely depend upon the actual passing of accounts, 'provided they have been daily rendered, "all ''which he fully makes out," I hope people 'will begin to be satisfied, that the nation has 'not been cheated of 35 millions.'" Tindal.

* "April 27. I am heartily sorry to find my friend the Secretary stand a little ticklish with the rest of the ministry; there have been one or two disobliging things that have happened, too long to tell: and the other day in parliament, upon a debate of about 35 millions that have not been duly accounted for, Mr. Secretary, in his warmth of speech, and zeal for his friend Mr. Brydges, on whom part of the blame was falling, said, he did not know that either Mr. Brydges or the late ministry were at all to blame in this matter; which was very desperately spoken, and giving up the whole cause: for the chief quarrel against the late ministry was the ill management of the treasure, and was more than all the rest together. I had heard of this matter: but Mr. Foley beginning to discourse to-day at table, without naming Mr. St. John, I turned to Mr. Harley and said, If the late ministry were not to blame in that article, he (Mr. Harley) ought to lose his head for putting the queen upon changing them. He made it a jest; but by some words dropt, I easily saw that they take things ill of Mr. St. John, and by some hints given me from another hand that I deal with, I am afraid the Secretary will not stand long. This is the fate of Courts. I will, if I meet Mr. St. John alone on Sunday, tell him my opinion, and beg him to set himself right, else the consequences may be very bad; for I see not how they can well want him neither, and he would make a troublesome enemy." Swift's Journal.

* "April 10. They talk of great promotions to be made; that Mr. Harley is to be lord treasurer, and lord Poulet master of the horse, &c. but they are only conjecture. The Speaker is to make Mr. Harley a compliment the first time he comes into the House, which I hope will be in a week. He has had an ill surgeon, by the caprice of that puppy Dr. Radcliffe; which has kept him back so long; and yesterday he got a cold, but is better to-day." Ibid.

The Speaker congratulates Mr. Harley on his Escape and Recovery.] On the 11th of April the Commons resolved, *nem. con.* "That when the right hon. Robert Harley, esq. Chancellor of the Exchequer, attends the service of this House, the Speaker do, in the name of this House, congratulate the said Mr. Harley's Escape, and Recovery,* from the barbarous and villainous Attempt, made upon him by the Sieur de Guiscard." Accordingly, on the 26th, Mr. Harley being in the House:

The *Speaker*, pursuant to the above Resolution, did in the name of the House congratulate him as follows:

"Mr. Chancellor of the Exchequer;

"When the barbarous and villainous attempt, made upon you by the Sieur De Guiscard, a French papist, was communicated to this House, they immediately declared, they were most deeply affected, to find such an instance of inveterate malice against you; and observing, how you have been treated by some persons, they concluded, they had reason to believe, that your fidelity to her majesty, and zeal for her service, had drawn upon you the hatred of all the abettors of popery and faction.—In this opinion they must be abundantly confirmed, since the lords, and the queen, have concurred with them.—Sir; If your fidelity to her majesty, and zeal for her service, could ever be doubted, and wanted any testimonials, to prove them, you have now the most honourable, the most ample, and the most undeniable, that can be given; and, after these, it would be an unpardonable presumption in me to imagine, I could add to them, by saying any thing of your faithful discharge of those great trusts, you have been honoured with, to which your eminent abilities at first recommended you, and your distinguishing merits have since justified her majesty's wise choice.—Your very enemies, Sir, acknowledge this by their unwearied and restless endeavours against your person, and reputation. God be thanked, they have been hitherto disappointed, and have not been able to accomplish, what their inveterate, but impotent, malice had designed against both. And may the same providence, that has wonderfully preserved you from some unparalleled attempts, and that has raised you up to be an instru-

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ment of great good in a very critical juncture, when it was much wanted, continue still to preserve so invaluable a life, for the perfecting of what is so happily begun, that we may owe to your counsels, and to your conduct (under her majesty) the maintenance, and firm establishment, of our constitution in Church and State.—These expectations, Sir, have filled this House with an inexpressible satisfaction for your escape, and recovery, which they have unanimously commanded me to congratulate: I do therefore, in the name of this House, congratulate your escape and recovery, from the barbarous and villainous attempt, made upon you by the Sieur De Guiscard."

Mr. Harley's Speech thereon.] The *Chancellor of the Exchequer* returned the House his humble Thanks, for the great honour they had done him, as follows: viz.

"Mr. Speaker;

"The honour this House hath done me, which you have expressed in so obliging a manner, is a sufficient reward for the greatest merit: I am sure it so far exceeds my deserts, that all I can do, or suffer, for the public, during the whole course of my life, will still leave me in debt to your goodness.—By the acceptance you have vouchsafed my poor services, how noble an encouragement, worthy of you, has this House given all our fellow-subjects to exert themselves in the glorious cause of preserving the constitution in Church and State, and in loyalty to the best of sovereigns?—This, without doubt, was your view; and this may convince all, who are not designedly obstinate, how dear the true interest of the nation is to this honourable assembly.—Sir; The undeserved favour, I have received this day, is deeply imprinted in my heart; and whenever I look upon my breast, it will put me in mind of the thanks due to God, my duty to the queen, and that debt of gratitude and service I must always owe to this honourable House, to you, Mr. Speaker, and to every particular member."

Mr. Harley's Bill for the South Sea Trade.] May 2. The Commons being in a committee of the whole House on Ways and Means, Mr. Chancellor of the Exchequer, Harley* proposed a Scheme he had formed, to satisfy all public and national Debts and Deficiencies, by allowing the proprietors of those Debts and Deficiencies an interest of six per cent. per ann. redeemable by parliament; and incorporating them to carry on the trade to the South-seas; which, if once settled, will yearly bring vast riches from Peru and Mexico into Great-Britain.

Resolutions of the House thereon.] This Project being received with general approbation, the Committee came to these Resolutions: 1. That a yearly sum not exceeding 140,000*l.* for 32 years out of the weekly sum of 700*l.* arising out of the Post-office, and out of the duties upon hides, skins, vellum and parchment, granted in this session of parliament, be set apart and appropriated for raising a sum not exceeding 1,500,000*l.* by contribution, for Exchequer orders payable in course, with a certain encrease of principal and interest, according to several classes, with addition of chances. 2. That a Fund be granted to her majesty, her heirs and successors, for payment of the interest of 6*l.* per cent. per ann. from the 24th of December, 1711, for the several public debts and deficiencies, for which a supply was granted by the resolutions of this House the 10th of March last; and also for the interest for the said debts and deficiencies to the 25th of December, 1711; and that such Fund be made redeemable by parliament. 3. That towards the raising the said Fund, the several impositions and additional impositions, rates and duties, and sums of money, which by an act made in the eighth year of her majesty's reign, entitled (among other things) 'An act for continuing several impositions, additional impositions, and duties upon goods imported, to raise money by way of loan for the service of the year 1710,' were granted and continued, or applied for the payment of the principal-money, to be lent or advanced by virtue of the said act or the interest thereof, shall be granted and continued to her majesty, her heirs and successors, from the several days and times for which, by the said act, they are so granted and continued, or applied for ever, redeemable by parliament. 4. That, in order to make the said fund the more effectual, all such tallies, and orders as have been made out by virtue of the said act, made in the eighth year of her majesty's reign, shall be engrafted into, and upon the said general fund, and that the several impositions, additional impositions, rates and duties, and sums of money by the said act granted, continued or applied for the payment of the said tallies and orders, shall be made a part of the said general fund, for paying the said prin-

* "April 23. I believe Mr. Harley must be Lord Treasurer; yet he makes one difficulty which is hard to answer: he must be made a lord, and his estate is not large enough, and he is too generous to make it larger; and if the ministry should change soon by any accident, he will be left in the suds. Another difficulty is, that if he be made a peer, they will want him prodigiously in the House of Commons, of which he is the great mover, and after him the Secretary, and hardly any else of weight.

"May 22. I met sir Thomas Mansel and Mr. Lewis in the Park. Lewis whispered me, that Mr. Harley's patent for earl of Oxford was passed in Mr. Secretary St. John's office; so to-morrow or next day I suppose he will be declared earl of Oxford, and have the staff. This man has grown by persecutions, turnings out, and stabbing. What waiting, and crowding, and bowing, will be at his levee? yet, if human nature be capable of so much constancy, I should believe he will be the same man still, bating the necessary forms of grandeur he must keep up." Swift's Journal.

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cipal and interest-money, during all such time as the same are by the said act granted, continued, or applied as aforesaid. 5. That, towards the said fund, the duties upon candles, and rates upon money to be given with clerks and apprentices, which, by an act made in the eighth year of her majesty's reign, were granted to her majesty from the first day of May 1710, for the term of five years, be farther granted and continued to her majesty, her heirs and successors, from the last day of April 1715, for ever, redeemable by parliament. 6. That the proprietors of the said Debts and Deficiencies, be incorporated, to carry on the trade to the South Seas. 7. That what the said rates and duties before agreed to, be part of the said fund, for payment of the said interest, shall fall short of paying the said interest, such deficiency shall be annually paid out of the first aids, that shall from time to time, be granted by parliament."

These Resolutions being the next day reported were agreed to by the House; and a Bill was ordered to be brought in thereupon *.

A Paper relating to the Bill about the Mine-Adventurers censured.] May 12. Upon a Complaint made of a printed Paper delivered at the door of the House of Commons, and

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* "The last thing settled by the parliament, was the creating a new fund for a trade with Spain. The Commons, on the 20th of January, had appointed a Committee to examine the debts of the Navy: and, about two months after they reported, that these debts amounted to above five millions. This great debt upon the navy was occasioned partly by the deficiency of the funds appointed for the service at sea, but chiefly by the necessity of applying such supplies as were given, without appropriating clauses, to the service abroad, where it was impossible to carry it on by credit, without ready money: so it was judged necessary to let the debt of the navy run on upon credit; by which means it had risen up to so many millions, and the discount on Navy-bills was very high. All this debt, with many others, were thrown into one stock, amounting in the whole to 9,471,325*l.* and a fund was formed for paying an interest or annuity of 6 per cent. till the principal should be paid, which interest amounted to the annual sum of 568,279*l.* 10*s.* For the raising of this sum, all the duties upon wines, vinegar, and tobacco, India goods, wrought silks, whale-fins, &c. were, after the year 1716, continued for ever, and till then the parliament was to make an annual provision for the interest. With this fund was also granted the monopoly of a supposed trade to the South-sea or coast of Peru in America; the several proprietors of the Navy-bills, Debentures, and other public securities, being to be incorporated for that purpose. This grant may justly be called chimerical, since the projector knew he was entering upon a negotiation of peace, which by the cession of Spain and the West-Indies, would for ever exclude the English from the privileges of trading to Peru and Mexico. Accordingly instead of such trade, king Philip, upon the conclusion of the peace, gave the precarious licence to send a ship or two thither yearly, limiting them both as to tonnage and value of cargo. This scheme produced what is called the South-sea Company.

The particulars of the Debts and Deficiencies, that were thus incorporated were as follows:

	£.	s.	d.
The debt of the Navy - - -	5,152,589	5	5
The debt of the Ordnance -	154,324	15	8¼
For Transport-service - - -	424,791	5	4
An army and transport-debenture, to Sept. 29, 1710	1,018,656	17	9
Deficient tallies and orders on 9 Will. 3, c. 13, and another act, 1 Anne, for laying duties on coals - -	12,025	1	0
Debts between Sept. 29, 1710, and Dec. 25, 1710, in the Offices of the Navy, Victualling, and Transport - - - - - - - - -	378,859	5	8¼
On subsidies to the Elector of Hanover and D. of Zell	9,375	0	0
The interest of the said debts as carry interest, from Dec. 25, 1710, to Dec. 25, 1711 - - - - -	85,000	0	0
For money lent pursuant to an act, 8 Anne, c. 13, to raise money for the year 1710 - - - - - - - - -	1,296,552	9	11¾
For interest due on the same, March 25, 1711 - - - -	74,875	19	1¼
All these amount to - - - -	8,585,000	0	0
The interest of this sum from March 25, 1711, to Dec. 28, 1711, at six per cent. - - - - - - - - -	386,325	0	0
To be raised for the service of the year 1711 - - - -	500,000	0	0
The whole stock - - - - -	9,471,325	0	0

"For payment of the interest of this stock at six per cent. the continuation of the general mortgage, from 1716, was granted to raise the annual sum of 568,279*l.* 10*s.*

"The flatterers of the new ministers made great use of this to magnify them, and to asperse the old ministry. But the earl of Godolphin's unblemished integrity was such, that no imputation of any sort could be fastened on him; and therefore, to keep up a clamour, they reflected on the expence he had run the nation into, upon the early successes in 1706, which were very justly acknowledged, and cleared in the succeeding session, as hath been related. But that affair was now revived, and it was said to be an invasion of the great right of the Commons in giving supplies, to enter on designs, and to engage the nation in expence not provided for by parliament. This was aggravated with many tragical expressions

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dispersed, entituled, "Observations on the Bill relating to the Mine-Adventurers," several paragraphs of it were read, and thereupon it was unanimously resolved, "That the said printed Paper was a false, malicious and scandalous Libel, highly reflecting on the honour and justice of this House, and the proceedings thereof," and a committee was appointed to enquire who was the Author, Printer and Publisher of the said Libel. Six days after, Mr. Carter made a Report from that committee, in which, sir Humphrey Mackworth, a member not then in the House, being named, the consideration of the said Report was put off till the next day, when sir Humphrey being in his place, owned and begged pardon for the writing of the paper.

Resolutions on the Increase of Public Debts, and diverting Money appropriated by Parliament.] May 15. Mr. Lowndes, (Secretary of the Treasury) presented to the House, the Representations and Memorials made by the Commissioners of the Victualling, relating to the provisions and victualling of the land-forces, with a List of them. And the order of the day being read, for taking into farther consideration the Report from the Committee, to whom it was referred, to examine and state the Public Debts, of the Navy, and other public offices, for which no provision was made by parliament: the House proceeded to take into consideration the said Report; and the said Representations and Memorials were read, after which it was resolved, 1. "That the encreasing the public expences beyond the Supplies annually granted by parliament, hath been the chief occasion of the debts of the nation, and an invasion of the rights of parliament.—2. That it appears to this House, That the sum of 660,806*l.* 7*s.* 7*d.* hath been paid out of the moneys issued to the service of the Navy, for provisions supplied to land-forces sent to Spain and Portugal, and for the garrison of Gibraltar, for which no deductions have been made from the pay of those forces, nor any part of that sum assigned to the Victualling, notwithstanding the several letters and Representations made to the Treasury in that behalf. 3. That such diverting of moneys issued to the service of the Navy, to the land-service, hath lessened the credit of the Navy, discouraged the seamen, occasioned the paying extravagant rates on the Navy-contracts, and was a misapplication of the public money. 4. That the applying any sum of un-appropriated money, or surplusages of funds to usages not voted, or addressed for by parliament, hath been a misapplication of the public money."

Bill to prevent Duelling.] The same day, sir Peter King presented to the House 'A Bill 'to prevent Duelling,' which was read the first time, and ordered a second reading.*

Resolution for a Representation to the Queen, concerning Mismanagements and Abuses.] May 24. It was Resolved, "That an humble Representation be made to her majesty upon the several Reports and Resolutions of this House relating to the Imprest-Accompts, the public Debts, the Arrears of Taxes, the Abuses in the Victualling, the bringing over the Palatines, and the charter imposed upon the corporation of Bewdley, in the county of Worcester:" and upon the debates of the House, a Committee was appointed to draw up the said Representation.

Representation of the Commons concerning Mismanagements and Abuses.] June 4. The Commons, with their Speaker, repaired to St. James's, and presented to her majesty the said Representation, as follows:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, have, with the utmost zeal and unanimity, applied ourselves to the dispatch of those great and important affairs, which your majesty was pleased to recommend to us from the throne, and we humbly hope, that we have, in every respect, answered your majesty's expectations in calling this parliament.—In making suitable provisions for the public service, we have met with great difficulties from the Anticipation of Funds, and the large sums with which the public Revenues stand charged for long terms of years to come: however, we have not been discouraged, but have, with great diligence, carried on our endeavours to raise such supplies, as, we trust, will be effectual, not only for the service of the present year, but also for the discharge of the heavy debts, so long, and so justly complained of. And, as the absolute necessity of carrying on the war, and our Resolutions to support the public credit, and maintain the honour and justice of parliament, have obliged us to increase the burthen of taxes upon our fellow-subjects, so we are persuaded, that the same reasons will induce them to pay those taxes with chearfulness and satisfaction.—At the same time, we have thought it another part of our duty, to enquire into the causes of the heavy debts we labour under, and to trace the source of that great evil, as what we thought would, in some degree, satisfy the minds of your people, and prevent the like mischief for the future.—This was a promise, and an assurance which we presumed to give your majesty at the beginning of this session: and now, at the conclusion of it, we beg leave to lay before your majesty the

as a subversion of the constitution; and at the end of the session an inflaming Representation about this and the thirty-five millions, of which the accounts were not yet passed, was presented by the Commons to the queen." Tindal.

* This Bill was, on the 12th, ordered to be brought in upon occasion of a Duel fought three days before, between sir Cholmly Deering, bart. knight of the shire for the county of Kent, and Richard Thornhill, esq.; in which sir Cholmley received a pistol-shot, of which he died seven or eight hours after.

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result of our enquiries, which, we hope, your majesty will not judge to be unworthy your royal consideration.

"In examining into the State of the War, and looking back from the beginning of it, we find, that, in several years, the service has been enlarged, and the charge of it increased beyond the bounds prescribed, and the annual supplies granted by parliament: to this new and illegal practice, we must, in great measure, ascribe the rise and growth of the heavy Debts that lie upon the nation; nor does the consequence of it end there; for, we must also represent it to your majesty as a dangerous invasion of the rights of parliament. The Commons must ever assert it as their sole and undoubted privilege, to grant money, and to adjust and limit the proportions of it; and when your majesty has recommended to them, to consider of Supplies, and they have deliberated upon the several Estimates for the annual services, and considered and determined what the nation is able to bear, their proceedings would be very vain and ineffectual, if, after the respective sums are stated, and granted, those, through whose hands the disposition of them passes, are allowed, in any measure, to alter and enlarge them. This is an attempt which very little differs from levying money without consent of parliament, as will appear to your majesty from this one consideration, that a charge of that kind once incurred, and laid as a debt upon the navy, or any other public office, is so far binding upon Parliament, that, how little soever they approve of the means by which it was contracted, yet the public credit being pawned, the Commons cannot, without the ruin of that, refuse to provide for it.

"This also has been an occasion, why great sums of unappropriated money, arising from the exceedings and surplusages of some of the funds granted by Parliament, have not been applied, as they ought to have been, in aid of the deficiencies of other funds. Had this just care been observed, the debts of the nation could not have increased to so exorbitant an height: but other uses were found out, such as were neither voted, nor addressed for, by Parliament, which, therefore, we adjudge to have been a misapplication of the public money.

"With regard to the Debts of the Navy, we find, that one great discouragement and burthen, which that part of the service has lain under, has been from a liberty that has been used, of diverting several sums issued to that service, and transferring them to other purposes, for which they were not intended; particularly, that the sum of 660,806*l.* 7*s.* 7*d.* belonging to the navy, has been paid for provisions supplied to land forces sent to Spain and Portugal, and for the garrison of Gibraltar; for which, no deductions have been made for the pay of those forces, nor any part of that sum re-assigned to the Victualling, notwithstanding the several acts of parliament provided, and the many letters writ, and representations made to the Treasury in that behalf. This unjustifiable proceeding has been a discouragement to seamen, occasioned the paying extravagant rates upon contracts, and has very much contributed to sink the credit of the navy.

"To this we must add the many notorious Embezzlements, and scandalous Abuses, which appear to have been practised, as well in the management of your majesty's Brew-house, as in the contracts for furnishing the navy with Beer. We have already presumed to address your majesty, that several persons whom we have discovered to have been guilty of those frauds, should be prosecuted at law for their offences; and we entirely rely upon your majesty's most gracious assurance, that those prosecutions should be effectually carried on: But we must also, upon this occasion, beg leave, farther to represent to your majesty, That the Commissioners appointed to take care of the Victualling your majesty's Navy, have been guilty of great negligence and remissness in their duty; for the instructions, which go along with that Commission, are so well adapted to the preventing those very abuses which have been committed, that nothing but a notorious mismanagement in that office, and an inexcusable neglect in pursuing those instructions, could have given way to the great loss the public has sustained in that part of the service.

"The evil effects of this Mismanagement in public offices, and misapplication of Parliamentary Supplies, have been increased by the very methods of bringing in the public money; for it has appeared to us, that the receivers of the land tax, and of the other revenues, have not been called upon to pay in the money they had received, in due time, as the law requires. Such has been the extreme remissness, and unaccountable indulgence of those, whose duty it was to oblige those receivers to make due and punctual payments, that on the 8th day of December, 1710, there was an arrear of the several land taxes, for 5 years, ending the 24th of March, 1709, amounting to the sum of 272,596*l.* 8*s.* 8*d.* some part of which was paid into the Exchequer after the Commons had ordered an enquiry into that matter; yet the sum standing out, at the beginning of April, 1711, was 180,439*l.* 7*s.* 6*d.*¼. From the omissions, the public remains long under the load of interest, for want of that money which lies in the hands of receivers; so that the Supplies granted to your majesty, however large, or well proportioned to the occasions of the war, could never prove effectual to prevent the incumbrance of debts, whilst they were neither collected nor disbursed faithfully, according to the ends and methods designed by parliament.

"Thus far we have proceeded in discovering some of those causes which have brought so great a weight of debts upon the nation, and we might have made a much greater progress in our enquiries, if the accounts of the public money had been regularly passed; but to our great surprize and concern, we find, that they who, of late years, had the management of your majesty's Treasury, and ought to have compelled the several accountants duly to pass their re-

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spective accounts, have been guilty of so notorious a breach of trust, and of so high an injustice to the nation, that the monies granted by parliament, and issued for the public service to Christmas, 1710, there remains unaccounted for the sum of 35,302,107*l.* for a great part of which no accounts have so much as been laid before the auditors; and for the rest, though some accounts have been brought in, yet they have not been prosecuted by the accountants, and finished. This has made it impracticable for us to arrive at so exact a knowledge of the state of the nation, with regard to the public money, as we wished and might have expected; and your majesty will please to consider, in such an immense sum unaccounted for, how many embezzlements may be concealed, and how justly it may be suspected, that so scandalous a remissness has been allowed with no other design. We humbly beseech your majesty, that you will give immediate and effectual directions for the compelling the several imprest accountants speedily to pass their accounts; and, in the mean time, we humbly hope, your majesty will approve the resolution of your Commons, 'That such of the accountants who have neglected their duty in prosecuting their accounts, ought no longer to be entrusted with receiving the public money.'

"We cannot omit taking notice to your majesty, of another extraordinary instance, in which the public money has been misapplied, by bringing over the poor Palatines to inhabit and settle themselves in this kingdom: this was not only an extravagant and unreasonable expence in itself, but many other ways uneasy and grievous to your people; for, as it was visible, that such numbers of necessitous and useless foreigners must unavoidably tend to the encrease and oppression of the poor of this kingdom, so, being a mixture of people of all religions, it was evident, how dangerous they might prove to the quiet of our government, and the constitution of our established church. Upon what encouragement and invitation they came over, we have not been able to discover; but we look upon it as certain, that the calling over so many families from a country so remote could not be brought about without industry and contrivance; and those who were concerned in it, seemed to have been conscious of the evil of their own designs, by the secrecy with which they pursued them. Your majesty, in your great wisdom, will best recollect from whence this attempt and advice proceeded, and we humbly represent it as our opinion, that the authors of it were enemies to your majesty and your kingdom.

"We beg leave to offer to your majesty's consideration but one thing more, which has alarmed your people with just fears, the arbitrary attempt of new modelling Corporations by imposing a Charter upon the borough of Bewdley; a charter void and illegal, not being accepted by the corporation then in being, destructive of the constitution of the parliament in transferring the rights of electors to others; and injurious to your majesty's subjects, in divesting them of their franchises and freeholds, even after they had been affirmed by judgments upon the rigorous prosecutions of Quo Warrantos. We return your majesty our most humble thanks for putting a stop to so pernicious a precedent, by ordering the proper methods to be taken for repealing the said charter and quieting the borough in the possession of their ancient privileges: we are truly sensible of your majesty's tender regard to the rights of all your people; and we cannot without indignation reflect upon the oppressive designs of those evil counsellors, who endeavoured to have brought a blemish of this kind upon your majesty's most just and gentle reign.

"From all these evil practices, and worse designs, of some persons, who had, by false professions of love to their country, insinuated themselves into your royal favour, irreparable mischief had accrued to the public, had not your majesty, in your great wisdom, seasonably discovered the fatal tendency of such measures; and, out of your singular goodness to your people, removed from the administration of affairs, those who had so ill answered the favourable opinion your majesty had conceived of them, and, in so many instances, grossly abused the great trust reposed in them. Your people could with greater patience have suffered the manifold injuries done to themselves by the frauds and depredations of such evil ministers, had not the same men proceeded to treat your sacred person with undutifulness and disregard; but, as the interests of your majesty and your people are inseparable and by your majesty and your good subjects inseparably pursued, the wrongs which these men had done to the public, drew upon them your royal displeasure; and their irreverence towards your majesty justly exposed them to the indignation of your people.

"Your majesty had, from the beginning of your auspicious reign, expressed a truly Christian moderation by promises of lenity and protection to all your peaceable subjects, and of countenance and favour to those who should most recommend themselves by their zeal for the established government in church and state; but these ministers framed to themselves wild and unwarrantable schemes of balancing parties, and under a false pretence of temper and moderation, did really encourage faction by discountenancing and depressing persons zealously affected to your majesty and to the church, and by extending their favour and patronage to men of licentious and impious principles, such as shake the very foundation of all government, and all religion.

"Out of our unfeigned zeal for your majesty's honour and service, and our faithful affection to the public good, we cannot forbear with all humility and earnestness to beseech your majesty that you would avoid, as the greatest enemies to your royal dignity, and to your people's safety, all persons who shall endeavour to engage you in such pernicious measures, and that

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you would employ, in places of authority and trust, such only as have given good testimonies of their duty to your majesty, and of their affection to the true interest of your kingdom.

"These are the humble Desires of your faithful Commons, and these we know to be your majesty's gracious intentions. From your tender concern for this church and nation, and from what you have lately done, and are going on to do, for the happiness and satisfaction of your people, we promise ourselves a favourable acceptance of this our application; and from our duty to your majesty, and our fidelity to our trust, your majesty may confide in us, that we will, upon all occasions, defend and support your majesty, and our happy constitution, against all enemies and opposers whatsoever."

The Queen's Answer.] To which the queen returned the following Answer:

"Gentlemen; This Representation gives me fresh assurances of your zeal for my service and for the true interest of your country.—It contains many particulars. I will take them all into my serious consideration, and give the necessary directions to redress the Grievances you complain of.—Be assured that your advice upon all occasions, has the greatest weight with me."

Orders for new Writs in the room of Members advanced to Places.] June 7. The Lords having passed the Bill for raising two millions, without amendment, it was generally expected, that the queen would, that day, have come to the House of Peers, to put an end to this long session: but it was thought fit to let the Commons sit some days longer, to give them an opportunity to make Orders for the issuing out new Writs for electing members in the room of such as were advanced to places of trust and profit.* Accordingly, the Commons ordered, this day, a new writ to be made out, for the city of York, in the room of the hon. Robert Benson, made Chancellor and Under-Treasurer of the Exchequer, and another for Thirsk, in the room of sir Thomas Frankland, appointed to manage the duties of the Post-office. Then the Commons adjourned to the 9th, when new writs were ordered to be issued out for Surrey, in the room of the hon. Heneage Finch, esq. who was made master of her majesty's jewel-house; another, for Somerset, in the room of sir William Wyndham, bart. advanced to the office of master of her majesty's hart and buck-hounds. This done, the Commons adjourned again to the 12th, and being then met, ordered other new writs to be made out, for electing, 1. A burgess for Droitwich, in the room of Edward Jeffreys, appointed one of her majesty's justices for the counties of Pembroke, Carmarthen, and Cardigan. 2. A burgess for Ilchester, in the room of Edward Philips, esq. made comptroller of the Mint. 3. A burgess for Hertford, in the room of Charles Cæsar, esq. appointed Treasurer of the Navy, in the room of Robert Walpole, esq. 4. A knight for Glamorgan, in the room of sir Thomas Mansel, advanced, or rather restored, to the office he enjoyed some years before, of comptroller of the queen's houshold, in the room of sir John Holland. 5. A burgess for Droitwich, in the room of Edward Foley, esq. made receiver of the duties upon hides and skins. 6. A burgess for New-Radnor, in the room of the right hon. Robert Harley, now earl of Oxford, &c called up to the House of Peers. 7. A burgess for Newtown, in Lancashire, in the room of John Ward, esq. made one of the justices of the counties of Chester and Flint, Denbigh and Montgomery, within the principality of Wales, and one of her majesty's counsel learned in the law, in the room of Mr. Lechmere. And in the 8th and last place, a burgess for Totness, in the room of Francis Gwynne, esq. appointed one of the commissioners of trade and plantations.

The Queen's Speech at the Close of the Session.] June 12. The queen came to the House of Peers; and, after passing several Bills, put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"It is with great pleasure I tell you, at the end of this session, that you have fully made good all the assurances you gave me at the beginning of it.—This I look upon as a farther pledge of my subjects duty and affection; which is the firmest support of my throne.—I thank you, gentlemen of the House of Commons, in a particular manner, for what you have done. You have complied with my desire in granting a supply for building many new Churches, and you have not only enabled me to carry on the war, but have made effectual provision for paying those heavy debts, which were almost grown an insupportable burden on the public; and this, at a time, when our enemies, every where, pleased themselves with the hopes, that the supplies for the service of the current year could not have been found. You have disappointed them in all respects, and by the great

* "It was never known before, that days were set a-part for rewarding members of parliament with places and employments; he that will look upon the Votes of the last day of the first session, will find almost nothing done but new writs ordered in the room of Parliament-Men, who had received their wages for their past year's service; and to such a pitch were they come at last, that at the end of the second session, when the queen's Speech was made, and the session closed to all other intents and purposes, both Houses are ordered to adjourn themselves for eighteen days, as if something extraordinary was still behind, that might require the sitting of the parliament; but when the day comes, nothing is done, but a second list of loyal members, preferred, is produced; and the vacancies of patriots turned courtiers, are by new writs ordered to be filled up; that these dutiful members might be ready at the beginning of the next session, to serve those that had so well rewarded them for their past services." Short History of the Parliament. Written by R. W. esq.

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sums you have raised, (the greatest ever granted to any prince in one session) you have restored the public credit, which I will take care to preserve, by a frugal management.—The world must now be satisfied, that nothing can be too difficult for a parliament filled with so much zeal for the true interest of the nation in Church and State.

"My Lords and Gentlemen; The satisfaction I take in the power with which God has entrusted me, is, to employ it for the protection and good of all my people, whose prosperity I have as much at heart as ever any of my predecessors had.—You see the happy effects of a mutual confidence between me and my subjects, I shall look upon any attempt to lessen it, as a step towards dissolving my government.—The temper you have shewn, will, I hope, convince those who have the misfortune to differ from our church, that their liberty is not in danger.—It is needless for me to repeat the assurances of my earnest concern for the Succession in the House of Hanover, and of my fixed resolution to support and encourage the Church of England as by law established.—You are now returning to your several countries, and I expect from you, that you will farther recommend yourselves to me, by studying to promote the public peace and quiet."

Principal Occurrences during the Recess.] The duke of Marlborough having been made easy in his command abroad, took the field as usual; and passed the French lines at Arleux and Bac-a-Bacheul without opposition, August 5, after which he invested Bouchain, and in the midst of difficulties, believed to be almost insurmountable, obliged the garrison to surrender at discretion, in sight of the French army, who durst not venture to make any motion for their relief. But in the mean while Mr. Mesnager coming over to England with proposals of peace, Mareschal Tallard was permitted to go home on his parole for 4 months, and Utrecht was appointed for a place of Congress; which was to be opened on the 1st of January following.

The parliament having been prorogued to the 27th of November, a Council was held on the 26th at St. James's, whether it should be further prorogued, or only adjourned for a few days; and it was at last carried for a prorogation till the 7th of December. It seems the Dutch, before they gave their consent to the opening of a Congress, were desirous to see first how the parliament was inclined; but the earl of Strafford, perceiving their design, told them plainly, that, till they agreed to treat, the session would not be opened, so they complied. Another reason for proroguing the parliament so late in the year, was the discovery of a coalition of some eminent peers of the High Church party, with those of the contrary side, and of their having concerted a Representation to be laid before the queen against a Peace on the foot of the proposals made by France; which it was thought, might be prevented, if not by other means, at least by the coming up of the Scotch peers, not above three or four of whom were yet arrived in London.*—In the mean time, pains were taken on many persons who were supposed to be concerned in the intended Representation. The lord treasurer Harley endeavoured to engage the earl of Nottingham in the court measures, against which he had openly declared. And the queen, at the same time, closeted the dukes of Grafton and St. Albans, the earls of Dorset and Scarborough, the lords Somers, Cowper, and particularly the duke of Marlborough, who, upon his coming over, spoke plainly to the queen against the steps that were already made: but he found her so possessed, that what he said made no impression; so he desired to be excused from coming to council, since he must oppose the present proceedings. All the rest likewise remained firm in their opinion, to the great disappointment of the new ministry.† It was therefore proposed at first in a council, on the 5th of December, to cause both Houses to adjourn for a few days, during which fresh endeavours might be used to defeat the design lately formed against the present scheme; but some members of the privy council having represented the fears and jealousies, which such an adjournment, after so many prorogations, might create in the minds of the people; and, on the other hand, the ministry, either hoping, with the assistance of their Scots friends, to have a majority in the House of Lords, or, at least, being secure of it in that of the Commons, it was, after a long debate, finally resolved, that the parliament should sit on the day, to which they were last prorogued.§

* "Nov. 25. The parliament is again to be prorogued for 8 or 9 days; for the Whigs are too strong in the House of Lords: other reasons are pretended, but that is the truth. The prorogation is not yet known, but will be to-morrow." Swift's Journal.

† "Among others," says bishop Burnet, "the queen spoke to myself: she said, she hoped bishops would not be against peace. I said, a good peace was what we prayed daily for; but the preliminaries offered by France gave no hopes of such a one; and the trusting to the king of France's faith, after all that had passed, would seem a strange thing. She said, we were not to regard the preliminaries; we should have a peace upon such a bottom, that we should not at all rely on the king of France's word; but we ought to suspend our opinions, till she acquainted us with the whole matter. I asked leave to speak my mind plainly, which she granted: I said, any treaty by which Spain and the West-Indies were left to king Philip, must in a little while deliver up all Europe into the hands of France; and, if any such peace should be made, she was betrayed, and we were all ruined; in less than three years time, she would be murdered, and the fires would be again raised in Smithfield. I pursued this long, till I saw she grew uneasy; so I withdrew."

§ "Dec. 1. The parliament will certainly

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SECOND SESSION OF THE THIRD PARLIAMENT OF GREAT BRITAIN.

The Queen's Speech on opening the Session.] December 7, 1711. The queen went in state to the House of Peers and opened the session with the following Speech to both Houses;

"My Lords and Gentlemen; I have called you together as soon as the public affairs would permit; and I am glad that I can now tell you that, notwithstanding the arts of those who delight in war, both place and time are appointed for opening the Treaty of a general Peace.—Our allies (especially the States General,) whose interest I look upon as inseparable from my own, have, by their ready concurrence, expressed their entire confidence in me; and I have no reason to doubt, but that my own subjects are assured of my particular care of them.—My chief concern is, that the Protestant religion, and the laws and liberties of these nations, may be continued to you, by securing the Succession to the crown, as it is limited by parliament, to the house of Hanover.—I shall endeavour, that after a war which has cost so much blood and treasure, you may find your interest in trade and commerce improved and enlarged by a peace, with all other advantages which a tender and affectionate sovereign can procure for a dutiful and loyal people.—The princes and states, which have been engaged with us in this war, being by treaties entitled to have their several interests secured at a peace; I will not only do my utmost to procure every one of them all reasonable satisfaction; but I shall also unite with them in the strictest engagements for continuing the Alliance, in order to render the general peace secure and lasting.—The best way to have this Treaty effectual, will be to make early provision for the campaign: Therefore I must ask of you, gentlemen of the House of Commons, the necessary supplies for the next year's war; and I do most earnestly recommend to you, to make such dispatch therein as may convince our enemies, that, if we cannot obtain a good peace, we are prepared to carry on the war with vigour.—Whatever you give, will be still in your own power to apply; and I doubt not but, in a little time after the opening of the Treaty, we shall be able to judge of its event.

"My Lords and Gentlemen; As I have had your chearful assistance for the carrying on this long and chargeable war; so I assure myself, that no true Protestant, or good subject, will envy Britain, or me, the glory and satisfaction of ending the same, by a just and honourable peace for us and all our allies.—Such a peace will give new life to our foreign trade, and I shall do my utmost to improve that happy opportunity to encourage our home manufactures, which will tend to the easing of my subjects in that excessive charge they now lie under in maintaining the poor, and to correct and redress such abuses as may have crept into any part of the administration during so long a war.—I cannot conclude, without earnestly recommending to you all unanimity; and that you will carefully avoid every thing which may give occasion to the enemy to think us a people divided amongst ourselves, and consequently prevent our obtaining that good peace, of which we have such reasonable hopes, and so near a view.—I pray God direct your consultations to this end, that being delivered from the hardships of war, you may become a happy and a flourishing people."

Debate on a Clause offered by the Earl of Nottingham.] As soon as the queen had ended her speech, she retired into a room, and, having taken off her robes, came back incognito to the House of Peers, both to hear the debates, and, by her presence, to moderate any heats, that might arise; which however, was by some observed to be unusual on the day the sovereign opens a session of parliament. The earl of Ferrers having made a motion for an Address of thanks to the queen for her speech,

The Earl of *Nottingham* rose up, and very copiously set forth "The insufficiency and captiousness of the late preliminaries; made a lively representation of the danger of treating upon so precarious a foundation; urged the express engagements, which Great-Britain had entered into with the allies, to restore the intire monarchy of Spain to the house of Austria; and the necessity of carrying on the war with vigour till those engagements were made good; adding, "That, though he had a numerous family, he would readily contribute half his income towards it, rather than acquiesce in a peace, which he thought unsafe and dishonourable to his country and all Europe." He concluded with offering a clause to be inserted in the Address of thanks, 'To represent to her 'majesty, as the humble opinion and advice of 'the House, that no Peace could be safe or 'honourable to Great-Britain, or Europe, if 'Spain and the West-Indies were allotted to 'any branch of the House of Bourbon.'

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meet on Friday next; the Whigs will have a great majority in the House of Lords; no care is taken to prevent it; there is too much neglect; they are warned of it, and that signifies nothing: it was feared there would be some peevish Address from the Lords against a peace. It is said about the town, that several of the allies begin now to be content that a peace should be treated.

"Dec. 5. The Whig lords are doing their utmost for a majority against Friday, and design, if they can, to address the queen against the peace. Lord Nottingham, a famous Tory and speech-maker, is gone over to the Whig side: they toast him daily, and lord Wharton says, 'It is *Dismal*' (so they call him from his looks) 'will save England at last.'

"Dec. 6. To morrow is the fatal day for the parliament meeting, and we are full of hopes and fears. We reckon we have a majority of 10 on our side in the House of Lords; yet I observed Mrs. Masham a little uneasy; she assures me the queen is stout." Swift's Journal.

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The Lord *Guernsey*, brother to the earl of Nottingham, said, "That such a clause was foreign to an Address of thanks: that, in all probability, few of the members of the House were prepared to speak to it; but that it might be debated at a more convenient time, when according to custom, the House should take into consideration the state of the nation."

He was seconded by the lord North and Grey, and another peer; and the Lord Treasurer added, "That according to the rules and orders of the House, this was not the proper time to debate such a motion." Upon this,

The Earl of Wharton appealed to the House whether there were any such order? and the duke of Buckingham, the most versed in parliamentary proceedings, having overruled the Treasurer's objection, the earl of Wharton proceeded; spoke with great zeal against the preliminary articles offered by France; and insisted upon the necessity of inserting in the Address the clause offered by the earl of Nottingham. He was supported by

The Earl of *Sunderland*, who answered the objection raised by some peers of the opposite side, namely, that they were not prepared to speak to that motion; "What, my lords, said he, is it possible, that any member of this illustrious house should be unprepared to debate an affair, which, for these ten years past, has been the principal subject-matter of our consultations? do not we sit in the same house? and are we not the peers who have constantly been of opinion, and have often represented to her majesty, that no safe and honourable peace can be made, unless Spain and the West-Indies be recovered from the House of Bourbon? It is true, I see some new faces among us: but even that lord, who sits on the woolpack [meaning the Lord Treasurer] may well remember, that, in the late reign, four lords were impeached for having made a Partition-treaty."

The Earl of *Anglesey*, (who, with the duke of Ormond, was just come into the House, having that morning travelled above 30 miles in their return from Ireland) represented "the necessity of easing the nation of the burden of this expensive war, and said, they ought to leave it to her majesty's wisdom to conclude a peace, when she thought it convenient for the good of her subjects:" adding, "that we might have enjoyed that blessing soon after the battle of Ramillies, if the same had not been put off by some persons, whose interest it was to prolong the war."

The Duke of *Marlborough*, who could not but perceive that this suggestion was levelled against him, made a long and pathetic speech, wherein, among other things, he said, "he thought himself happy, in having an opportunity given him of vindicating himself on so material a point, which his enemies had so loudly, and so unjustly, laid to his charge, before a person [meaning the queen, and making a bow towards the place where her majesty was] who knowing the integrity of his heart, and the uprightness of his conduct, would not fail doing him justice. That he referred himself to the queen, whether, whilst he had the honour to serve her majesty, as general and plenipotentiary, he had not constantly informed her, and her council, of all the proposals of peace, that had been made: and had not desired instructions for his conduct on that subject? That he could declare with a safe conscience, in the presence of her majesty, of that illustrious assembly, and of that Supreme Being, who is infinitely above all the powers upon earth, and before whom, according to the ordinary course of nature, he must soon appear, to give an account of his actions, that he ever was desirous of a safe, honourable, and lasting peace; and that he was always very far from any design of prolonging the war for his own private advantage, as his enemies had most falsely insinuated. That his advanced age, and the many fatigues he had undergone, made him earnestly wish for retirement and repose, to think of eternity the remainder of his days; the rather, because he had not the least motive to desire the continuance of the war, having been so generously rewarded, and had honours and riches heaped upon him, far beyond his desert and expectation, both by her majesty and her parliaments. That he thought himself bound to this public acknowledgment to her majesty and his country, that he should always be ready to serve them, if he could but crawl along, to obtain an honourable and lasting peace: but that, at the same time, he must take the liberty to declare, that he could, by no means, give into the measures that had lately been taken to enter into a negotiation of peace with France, upon the foot of the seven preliminary articles; for, he was of the same opinion with the rest of the allies, that the safety and liberties of Europe would be in imminent danger, if Spain and the West-Indies were left to the House of Bourbon; which, with all humility, and as he thought himself in duty bound, he had declared to her majesty, whom he had the honour to wait on, after his return from Holland: and, therefore, he was for inserting in the Address the Clause offered by the earl of Nottingham."

This speech, delivered with a most hearty concern, had the greater weight, as it was supported by the lord Cowper, the bishop of Sarum, the lord Halifax, and some other peers. On the other hand, the lord North and Grey and some other officious courtiers said, That, since peace and war belonged as prerogatives to the crown, it was not proper to offer any advice in those matters, until it was asked: but this was rejected with indignation, since it was a constant practice, in all sessions of parliament, to offer advices; no prerogative could be above advice; this was the end specified in the writ, by which a parliament was summoned; nor was the motion for a delay received. The eyes of all Europe were upon the present session; and this was a post-night: so it was fit they should come to a present resolution, in a matter of such importance.

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The Clause is agreed to by the Lords.] This debate (in which the dukes of Shrewsbury and Buckingham were observed to say little or nothing) having lasted till near seven in the evening, the question was put, Whether the earl of Nottingham's advice should be part of the Address? and the previous question being first put, it was carried by 62 against 54: so this point was gained, though by a small majority.

It was expected that the court-party would the next day have the majority, by means of the proxies which eight Scots peers had sent to the duke of Hamilton and the earl of Mar. Wherefore, when the Address of the lords was reported to the House, by the committee appointed to prepare it, the court tried to get the whole matter to be contested over again, pretending, that the debate was not now; upon the matter, debated the day before, but only whether they should agree to the draught, prepared by the committee: but that part of it, which contained the advice, was conceived in the very words, in which the vote had passed; and it was a standing rule, that what was once voted, could never again be brought into question during that session. This was so sacred a rule, that many of those, who voted with the court the day before, expressed their indignation against it, as subverting the very constitution of parliaments, if things might be thus voted and unvoted again, from day to day: yet even upon this a division was called for, but, the majority appearing so evidently against the motion, it was yielded, without counting the House.*

The Lords' Address.] December 11. The Lords waited on the queen with their Address, which was as follows: "We your majesty's most dutiful and loyal subjects, the

* "Dec. 7. This being the day the parliament was to meet, and the great question to be determined, I went to Dr. Freind to dine in the city, on purpose to be out of the way, and we sent our printer to see what was our fate; but he gave us a most melancholy account of things. The earl of Nottingham began, and spoke against a peace, and desired that in their Address they might put in a Clause to advise the queen not to make a peace without Spain; which was debated, and carried by the Whigs by about six voices: and this has happened entirely by my Lord Treasurer's neglect, who did not take timely care to make up all his strength, although every one of us gave him caution enough. Nottingham has certainly been bribed. The question is yet only carried in the committee of the whole house, and we hope when it is reported to the house to-morrow, we shall have a majority by some Scots lords coming to town. However, it is a mighty blow and loss of reputation to Lord Treasurer, and may end in his ruin. I hear the thing only as the printer brought it, who was at the debate; but how the ministry take it, or what their hopes and fears are, I cannot tell until I see them. I shall be early with the Secretary to-morrow, and then I will tell you more, and shall write a full account to the bishop of Clogher to-morrow, and to the archbishop of Dublin, if I have time. I am horribly down at present! I long to know how Lord Treasurer bears this, and what remedy he has.

"Dec. 8. I was early this morning with the Secretary, and talked over this matter. He hoped, that when it was reported this day in the House of Lords, they would disagree with their committee, and so the matter would go off, only with a little loss of reputation to Lord Treasurer. I dined with Dr. Cockburn, and after a Scotch member came in, and told us that the Clause was carried against the court in the House of Lords almost two to one; I went immediately to Mrs. Masham, and meeting Dr. Arbuthnott (the queen's favourite physician) we went together. She was just come from waiting at the queen's dinner, and going to her own. She had heard nothing of the thing being gone against us. It seems Lord Treasurer had been so negligent, that he was with the queen while the question was put in the house: I immediately told Mrs. Masham, that either she and Lord Treasurer had joined with the queen to betray us, or that they two were betrayed by the queen: she protested solemnly it was not the former, and I believed her; but she gave me some lights to suspect the queen is changed. For, yesterday when the queen was going from the house, where she sat to hear the debate, the duke of Shrewsbury, Lord Chamberlain, asked her, whether he or the great chamberlain Lindsay ought to lead her out; she answered short, 'Neither of you,' and gave her hand to the duke of Somerset, who was louder than any in the house for the clause against Peace. She gave me one or two more instances of this sort, which convince me that the queen is false, or at least very much wavering. Mr. Masham begged us to stay, because Lord Treasurer would call, and we were resolved to fall on him about his negligence in securing a majority. He came, and appeared in good humour as usual, but I thought his countenance was much cast down. I rallied him, and desired him to give me his staff, which he did; I told him, If he would secure it me a week, I would set all right: he asked, How? I said, I would immediately turn lord Marlborough, his two daughters, the duke and duchess of Somerset, and lord Cholmondeley out of all their employments; and I believe he had not a friend but was of my opinion. Arbuthnott asked, How he came not to secure a majority? He could answer nothing, but that he could not help it, if people would lie and forswear. A poor answer for a great minister. There fell from him a scripture expression, that 'the hearts of kings are unsearchable.' I told him, It was what I feared, and was from him the worst news he could tell me. I begged him to know what we had to trust to; he stuck a little; but at last bid me not fear, for all would be well yet. We would fain have had

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Lords Spiritual and Temporal in parliament assembled, do, with hearts full of gratitude and loyalty to your sacred majesty, beg leave to return your majesty our most humble and hearty thanks and acknowledgments for your majesty's most tender and affectionate care for all your people, expressed in your majesty's most gracious speech from the throne, and for imparting to us your majesty's desires of ending this present war, by a peace advantageous to your subjects, and just and honourable for your majesty and all your allies; as also for your majesty's expressing so particular a regard for the interest of the States-General, as inseparable from your own; and that your majesty is graciously pleased to assure us, it is your chief concern, that the Protestant religion, and the laws and liberties of these nations, may be continued to your people, by securing the succession to the crown, as it is limited by parliament, to the House of Hanover; and that your majesty is pleased to shew so just a resolution to procure a satisfaction for all the allies, being by treaties entitled to have their several interests secured at a peace, and to unite them in the strictest engagements, in order to render the peace secure and lasting.—And we do beg leave to represent it to your majesty, as the humble opinion and advice of this house, that no peace can be safe or honourable to Great Britain, or Europe, if Spain and the West Indies are to be allotted to any branch of the House of Bourbon.*"

The Queen's Answer.] Her majesty gave this Answer:

"My Lords; I take the thanks you give me kindly. I should be sorry any one could think I would not do my utmost to recover Spain and the West Indies from the House of Bourbon."

Protest occasioned by the Address.] On oc-

him eat a bit where he was, but he would go home, it was past six; he made me go home with him. There we found his brother and Mr. Secretary. He made his son take a list of all in the House of Commons who had places, and yet voted against the Court, in such a manner as if they should lose their places: I doubt he is not able to compass it. This is a long journal, and of a day that may produce great alterations, and hazard the ruin of England. The Whigs are all in triumph; they foretold how all this would be, but we thought it boasting. Nay, they said the parliament should be dissolved before Christmas, and perhaps it may: this is all your d—d duchess of Somerset's doings. I warned them of it nine months ago, and a hundred times since: the Secretary always dreaded it. I told Lord Treasurer, I should have the advantage of him; for he would lose his head, and I should only be hanged, and so carry my body entire to the grave.

"Dec. 9. I was this morning with Mr. Secretary; we are both of opinion that the queen is false. I told him what I heard, and he confirmed it by other circumstances. I then went to my friend Lewis, who had sent to see me. He talks of nothing but retiring to his estate in Wales. He gave me reasons to believe the whole matter is settled between the queen and the Whigs; he hears that lord Somers is to be Treasurer, and believes, that sooner than turn out the duchess of Somerset, she will dissolve the parliament, and get a Whiggish one, which may be done by managing elections. Things are now in the crisis, and a day or two will determine. I have desired him to engage Lord Treasurer, that as soon as he finds the change is resolved on, he will send me abroad as queen's secretary somewhere or other, where I may remain till the new ministers recal me; and then I will be sick for five or six months till the storm has spent itself. I hope he will grant me this; for I should hardly trust myself to the mercy of my enemies while their anger is fresh. I dined to-day with the Secretary, who affects mirth, and seems to hope all will yet be well. I took him aside after dinner, told him how I had served them, and had asked no reward, but thought I might ask security; and then desired the same thing of him, to send me abroad before a change. He embraced me, and swore he would take the same care of me as himself, &c. but bid me have courage, for that in two days my Lord Treasurer's wisdom will appear greater than ever; that he suffered all that had happened on purpose, and had taken measures to turn it to advantage. I said, God send it; but I do not believe a syllable; and as far as I can judge, the game is lost. I shall know more soon, and my letters will at least be a good history to shew you the steps of this change.

"Dec. 10. I was this morning with Lewis, who thinks they will let the parliament sit till they have given the money, and then dissolve them in Spring, and break the ministry. He spoke to Lord Treasurer about what I desired him. My lord desired him with great earnestness to assure me, that all would be well, and that I should fear nothing. I dined in the city with a friend. This day the Commons went to the queen with their Address, and all the Lords who were for Peace went with them, to shew their zeal." Swift's Journal.

* "When this Address was carried, it is not easy to describe the effects it had upon most mens passions. The partizans of the old ministry triumphed loudly, and without any reserve, as if the game were their own. The earl of Wharton was observed in the house to smile, and put his hands to his neck when any of the ministry was speaking, by which he would have it understood that some heads were in danger. Parker the chief-justice, began already with great zeal and officiousness to prosecute authors and printers of weekly and other papers, writ in defence of the administration: in short, joy and vengeance sat visible in every countenance of that party." Swift's Four Last Years.

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casion of this Address the following Protest was entered:

"Dissentient. We dissent to the Address, because the nature of it is changed, by the insertion of the last clause, from that of an Address of Thanks; neither have we any thing parliamentary from the throne, or otherwise, laid before us, whereon to ground such advice as is therein contained. And we look upon it as an encroachment on the royal prerogative, in so hasty a manner to declare our opinions, and on no better grounds, in a thing so essentially belonging to the crown as making of peace and war. (Signed) Beaufort, Osborn, P. St. Davids, Stawell, Hatton, Joh. Bristol, C. P. S. Willoughby de Broke, Clarendon. Denbigh, T. Cnichester, Northumberland, Yarmouth, Plymouth, Delawar, Sussex, Thanet, Berkshire, North and Grey, Scarsdale, Cardigan."

Vote of the Commons for an Address of Thanks.] The Speaker of the House of Commons having reported the Queen's Speech, the House resolved, "That an humble Address be presented to her majesty, returning her majesty the humble thanks of the House for her making the Protestant religion, the laws and liberties of these nations, and the Succession to the crown, as limited by parliament, to the House of Hanover, her chief concern, and to express the satisfaction of the House, in what her majesty had been pleased to declare, concerning the general peace her majesty had in view; and also to assure her majesty, that the House would give such dispatch to the necessary Supplies as might enable her majesty to carry on the war with vigour, if a good peace could not be obtained; and in the mean time, that this House would use their utmost endeavours to preserve such an unanimity as might give the enemy no hopes from any divisions among us." It was moved to insert in this Address a Clause importing, "That the House did not doubt but that care would be taken, that Spain and the Indies should not be left in the hands of any branch of the House of Bourbon; which might endanger the safety of her majesty's person and government: the Protestant Succession in the House of Hanover, and the liberty of Europe;" but after a long debate, the said Clause was rejected by a majority of 232 voices against 106.*

The Commons' Address.] Dec. 8. The Commons presented the following Address:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return our sincere and hearty thanks for your majesty's most gracious Speech from the throne; wherein your majesty, by expressing your great care and concern in so particular a manner, for the Protestant religion, which, above all things, is most dear to us; for those laws and liberties which make us peculiarly happy above other nations; and for the Succession of the House of Hanover, as limited by parliament, upon which the future security of our religion, laws and liberties, depends; has given us a fresh demonstration, that your majesty has nothing so much at heart as the safety and happiness of your people. Having an entire confidence in your majesty's wisdom and goodness, in your honour and justice to your allies, and in your particular care of your own subjects, we cannot but express our satisfaction in what your majesty has been pleased to declare, of the just and honourable peace your majesty has in view.—This was the end for which your majesty entered into the war; and nothing can add more to the glory of your reign, than, after the many unparalleled successes in the course of this war, to have your majesty conclude it with the blessing of such a peace; which we cannot doubt, will be rendered secure and lasting, by your majesty's pursuing the wise resolution you have taken, of entering into the strictest engagements for continuing the alliance to that end.—And we presume to assure your majesty, we will take all possible care to preserve that unanimity your majesty has recommended to us, and use our utmost endeavours to disappoint, as well the arts and desires of those, who, for private views, may delight in war, as the hopes the enemies may have vainly entertained, of receiving advantage from any division among us.—We entirely concur with your majesty, that the best way to bring this treaty to good effect, is to make an early provision for the next campaign; for which purpose, notwithstanding the heavy burthens, which, during this long and expensive war, your majesty's subjects have undergone, we will, with the greatest alacrity, grant such effectual and speedy supplies, as shall enable your majesty to carry on the war with vigour, and convince your enemies, if the intended negociations should prove ineffectual, that no amusements nor attempts whatsoever, can alter our firm and stedfast resolution of supporting the best of sovereigns in carrying on so just a war, till a safe, lasting, and honourable peace may be procured for your majesty and all your allies."

The Queen's Answer.] Her majesty's Answer was as follows:

* "As Walpole dignified and supported an administration prosperous at home and glorious abroad, so when it was vilified and disgraced, he made animated replies to the attacks of a powerful and irritated party. During the intervening period, from his resignation to the death of queen Anne, he persevered in his attachment to his late associates, and in harrassing the new ministers, with great ability both in and out of parliament. The first instance in which he appeared the champion of the fallen party, was upon the motion of an Address to the queen. On this occasion, Walpole, whom Swift in his History of the Four Last Years of queen Anne, calls *one* Mr. Robert Walpole, proposed an Amendment to the Address, &c." Coxe's Walpole.

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"This very dutiful Address is what I expected from the zeal and loyalty of such an House of Commons.—I return you my hearty thanks for the confidence you have in me. I entirely rely upon your assurances, and you may depend upon my affection, and care for your interests."

Debate on the Duke of Hamilton's Case, as to his Title of Duke of Brandon.] Dec. 10. The duke of Hamilton, one of the 16 peers for Scotland, having some months before been created a peer of Great Britain, by the stile and title of duke of Brandon, notwithstanding a caveat entered against his patent; and now claiming a place, in that quality, in the House of Peers, many lords, who apprehended no small danger to the constitution, from the admitting into their House a greater number of Scotch peers than were agreed to by the Union, upon a due consideration of the proportion of public taxes paid by Scotland, resolved to oppose the said claim. Hereupon, a motion was made for taking that matter into consideration, which was done accordingly; but after a few speeches the debate was adjourned to the Wednesday following. Some court-lords, who were sensible that the discussing of this affair would strike at the royal prerogative, made that day a motion for adjourning, but it was carried by a majority of 3 only, that they should go on with the resumed debate about the duke of Hamilton's sitting in the House as duke of Brandon. However, after some time spent therein, the further consideration of that business was put off till the 20th.

Bill of Occasional Conformity brought in by the Earl of Nottingham.] Dec. 15. The earl of Nottingham having brought into the House of Peers a Bill for preserving the Protestant Religion, by better securing the church of England as by law established, and for confirming the Toleration granted to Protestant Dissenters, by an act entitled, 'An Act for 'exempting their majesty's Protestant subjects, 'dissenting from the church of England, from 'the penalties of certain laws, and for supplying the defects thereof; and for the further 'securing the Protestant Succession, by requiring the practisers of the law, in North Britain, to take the oaths, and subscribe the declaration therein mentioned.' His lordship was backed by the earls of Scarborough and Wharton, and several other lords: so that the Bill was received and read the first time, without any opposition. The Monday following, after the second reading of the Bill, the Lords took the same into consideration, in a grand committee, and having made some amendments to it, ordered it to be engrossed. The next day the Bill, having passed the House of Lords, was sent down to the Commons, who read it immediately the first time, and gave it a second reading the next day. On the Thursday a Petition was offered to the House on behalf of the Dutch and French Protestant churches, praying that they might be excepted from the restraints laid by this Bill on English Dissenting congregations; but the question being put, that the Petition be brought up, it passed in the negative: after which the Commons, in a committee of the whole House, (which that morning was very thin) made several amendments to the Bill. These amendments being immediately reported and agreed to, the Bill was thereupon sent back to the House of Peers; who, the same day, sent down a message to the Commons to acquaint them, that they had agreed to those amendments.

The Earl of Nottingham complains of a printed Speech, written by Dr. Swift.] Dec. 18. Complaint being made to the House of Lords, of a Paper printed and published, contrary to a standing order of this house, intituled, "The earl of Nottingham's Speech to the honourable House of Lords; London, printed by J. Tomson, near Covent-Garden, 1711:" And the said title being read: a Committee was appointed, to inquire who is the author, printer, and publisher of the said paper.

On the 22nd, the duke of Devonshire reported from the said Committee, "That their lordships find the said Paper to be false and scandalous, and printed by a sham name; and that, by the oath of Sarah Vickers, it appears to have been printed by Andrew Hind, living in Peterborough-Court, near Fleet-street. And that it is the opinion of the committee, that the House be moved, That the said Andrew Hind be taken into the custody of the Gentleman Usher of the Black Rod attending this House." Which said Report being read, and agreed to; Hind was accordingly ordered into custody; where he remained until the 19th of January, when upon petitioning their lordships, he was discharged.*

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* "Lord Nottingham, a famous Tory and Speechmaker, is gone over to the Whig side. They toast him daily, and lord Wharton says, 'It is *Dismal* (so they call him from his looks) 'will save England at last.' Lord Treasurer was hinting as if he wished a ballad was made on him, and I will get up one against to-morrow." Swift's Journal to Stella, Dec. 5, 1711.—"I was this morning making the ballad two degrees above Grub Street, then dined with our society. The printer came before we parted, and brought the ballad, which made them laugh very heartily a dozen times." Ibid, Dec. 6.

"There was printed a Grubstreet speech of lord Nottingham; and he was such an owl to complain of it in the House of Lords, who have taken up the printer for it. I heard at Court, that Walpole, a great Whig member, said, that I and my whimsical club writ it at one of our meetings, and that I should pay for it. He will find he lies; and I shall let him know by a third hand my thoughts of him." Ibid. Dec. 18.

The Ballad was as follows:

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Debate concerning the Duke of Hamilton's Patent.] Dec. 20. The Lords resumed the adjourned debate concerning the duke of Hamilton's claim to sit in that assembly, as duke of Brandon, by virtue of his late patent; the queen being, *incog.* in the House. After learned counsel in the law for the queen, the House of Lords, and the duke of Hamilton, had been heard, several speeches were made on both sides, so that the debate lasted till near 8 o'clock in the evening, when the question was put, Whether the 12 Judges should be consulted with? Which being carried in the Negative by 14 voices, Proxies included, another question was put, Whether Scotish peers, created peers of Great Britain since the Union, have a right to sit in that House, which was also carried in the Negative by 5 voices, viz. Contents 57: Not Contents 52.

Protest thereon.] On which occasion was entered the following Protest:

"Dissentient.' 1. Because, as we apprehend by this resolution the prerogative of the crown in granting patents of honour, with all privileges depending thereon to the peers of Great Britain who were peers of Scotland at the time of the Union, as well as the right of the duke of Brandon to sit and vote in parliament, are taken away; and this prerogative of the crown and right of the duke depending upon the construction of an act of parliament, though counsel, by order of the House, were heard at the bar, and all the judges were ordered to attend at the same time, yet the opinion of the judges was not permitted to be asked touching the construction of the said act of parliament.—2. Because the prerogative of the crown, as we conceive, in granting patents of honour, with the privileges depending thereon, ought not, on the construction of any act of parliament, to be taken away unless there be plain and express words to that purpose in the said act; and, we conceive there are no such plain and express words for that purpose in the act of Union.—3. Because, by this resolution, all the peers of Great Britain, who were peers of Scotland at the time of the Union, are supposed to be incapable of receiving any patent of honour from the crown, by virtue whereof they may be entitled to the privileges of sitting and voting in parliament, and sitting on the trial of peers; which, we conceive, is repugnant to the fourth Article of the act of Union, which declares the privileges and advantages which do or may belong to the subjects of either kingdom, except where it is otherwise expressly agreed in those Articles, in which, we apprehend there is no such provision.—4. Because the duke of Queensberry, in all respects, in the same case as the duke of Hamilton, was introduced, sat and voted in this house in matters of the highest importance in two several parliaments, as duke of Dover, by virtue of a patent passed since the Union; and in consequence of such sitting and voting, his vote in the election of peers of Scotland was rejected; and as a further consequence thereof the marquis of Lothian was removed from his seat in this House, which he had undeniable title to, if the duke of Queensberry's patent as duke of Dover

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AN EXCELLENT NEW SONG.

Being the intended Speech of a famous Orator against Peace.

An Orator *dismal* of *Nottinghamshire*,
Who has forty years let out his conscience to hire,
Out of zeal for his country, and want of a place,
Is come up, *vi et armis*, to break the queen's peace.
He has vamped an old speech, and the court, to their sorrow,
Shall hear him harangue against Prior to-morrow.
When once he begins, he never will flinch,
But repeats the same note a whole day, like a Finch.
I have heard all the speech repeated by Hoppy,
And, "Mistakes to prevent, I've obtained a copy."

THE SPEECH.

Whereas, notwithstanding, I am in great pain,
To hear we are making a peace without Spain;
But, most noble senators, it is a great shame,
There should be a peace, while I'm *Not-in-game*.
The duke show'd me all his fine house; and the duchess
From her closet brought out a full purse in her clutches:
I talk'd of a peace, and they both gave a start,
His grace swore by G—d, and her grace let a f—t:
My long old-fashion'd pocket was presently cramm'd;
And sooner than vote for a peace I'll be damn'd.
But some will cry Turncoat, and rip up old stories,
How I always pretended to be for the Tories:
I answer; the Tories were in my good graces,
Till all my relations were put into places.
But still I'm in principle ever the same,
And will quit my best friends, while I'm *Not-in-game*.
When I and some others subscribed our names
To a plot for expelling my master king James;
I withdrew my subscription by help of a blot,
And so might discover or gain by the plot:
I had my advantage and stood at defiance,
For Daniel was got from the den of the lions:
I came in without danger, and was I to blame?
For, rather than hang, I would be *Not-in-game*.
I swore to the queen, that the prince of Hanover
During her sacred life would never come over:
I made use of a trope; that "an heir to invite
Was like keeping her monument always in sight."
But, when I thought proper, I alter'd my note;
And in her own hearing I boldly did vote,
That her majesty stood in great need of a tutor,
And must have an old or a young coadjutor:
For why; I would fain have put all in a flame,
Because, for some reasons, I was *Not in-game*.
Now my new benefactors have brought me about,
And I'll vote against peace, with Spain or without:
Though the court gives my nephews, and brothers, and cousins,
And all my whole family places by dozens;
Yet, since I know where a full purse may be found,
And hardly pay eighteen pence tax in the pound:
Since the Tories have thus disappointed my hopes,
And will neither regard my figures nor tropes;
I'll speech against peace while *Dismal's* my name,
And be a true Whig, while I'm *Not-in-game*."

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had not given him a title to sit and vote in this House.—5. Because by this resolution, the peers of Scotland are reduced to a worse condition, in some respects, than the meanest or most criminal of subjects.—6. Because, we conceive this resolution may be construed to be a violation of the treaty between the two nations. (Signed) Winchelsea, Ormond, Balmerino, Clarendon, Oxford and Mortimer, Boyle, Kylsyth, Rivers, Blantyre, Hunsdon, Paulett, Harcourt, C. S. Hume, Mar, Loudoun, Osborne, Roseberrie, Isle, Orkney."

REPORT OF THE COMMISSIONERS FOR EXAMINING AND STATING THE PUBLIC ACCOUNTS —*The Duke of Marlborough's Accounts—And the Affairs of the Army.*] December 21. Mr. Lockhart, from the Commissioners for taking, examining and stating, the Public Accounts of the kingdom, made a Report of some Practices, which they have discovered in their Examinations, relating to the Affairs of the Army; which he read in his place; and afterwards delivered in at the clerk's table: where the same was read, as follows:

"Your Commissioners humbly represent, That though they have used their utmost application in taking and examining the Public Accounts, yet they are unprepared to offer any perfect state of the particular branches of the Revenue to the House: but will endeavour to lay before you, after the recess, a general Account of the Receipts and Issues of her majesty's exchequer for the current year 1711; which they hope, is all will, for the present, be expected from them: as well in regard of the shortness of the time they have been engaged in this work, as of the great variety and extent of it: they beg leave also to observe, that many of the accounts are not yet completely brought before them; particularly those of the Army, which are very large and voluminous.

"But in the course of their Examinations relating to the Affairs of the Army, they have already discovered some Practices, which they conceive highly detrimental to the public, and such as they are obliged to report to you. In obedience therefore to your order, of Tuesday the 11th instant, your commissioners here present a State of several Facts; which with their circumstances and proofs, they humbly offer to the wisdom and justice of the House.

"Your commissioners having ground to believe, that there had been some Mismanagements in making the contracts for the use of the Army, summoned, and examined, Sir Solomon De Medina, the Contractor for the Bread, and Bread-Waggons, in the Low-countries, who, after expressing much uneasiness on the apprehensions he had of being thought an informer and of accusing a great man, did depose:

"That for the years 1707, 1708, 1709, 1710, and 1711, he has been solely, or in partnership, concerned in the contracts for supplying bread, and bread-waggons, to the forces in the Low countries, in the queen of Great Britain's pay; and that he gave to the duke of Marlborough, for his own use, on each contract, the several sums following; part of which was paid at the beginning, and part at the end, of each respective contract, in bills or notes delivered by the deponent into the duke's own hands; viz. for the year 1707, 66,600 guilders: for the year 1708, 62,685 guilders; for the year 1709, 69,578 guilders and 15 stivers: for the year 1710, 66,310 guilders 19 stivers and 8 pennings: Total, 265,614 guilders 14 stivers and 8 pennings: for the year 1711, 21,000 guilders; which sum is, in part of a like sum with those above-mentioned, intended to be paid at the end of the contract for this year: That he was obliged to allow yearly, during the time of his being contractor, 12 or 14 waggons, gratis, to the duke of Marlborough: That during the time of his being contractor, as aforesaid, he gave on sealing each contract, a gratuity of 500 gold ducats to Mr. Cardonnell, Secretary to the duke of Marlborough: That for the money he received of Mr. Sweet, deputy paymaster at Amsterdam, he was obliged to pay 1*l.* per cent.: that the former contractor, Machado, did the same; and that he acquainted the duke of Marlborough with this deduction of 1*l.* per cent.

"He further deposed, That it appeared by the accounts of Antonio Alvarez Machado, who had been a contractor before him, and had supplied the bread, and bread-waggons, to the forces in English pay, for the years 1702, 1703, 1704, 1705, and 1706, That he, the said Machado, had paid as large yearly sums to the duke of Marlborough, during the time of his being contractor, as this deponent has since done.

"From whence it appears, that the duke of Marlborough has received, on account of the bread, and bread-waggon contracts, from sir Solomon de Medina (admitting the sum already paid, and what is intended to be paid, for this present year 1711, to be the same with that of the preceding year, 1710,) 382,425 guilders and 14 stivers. From Antonio Alvarez Machado, during the five years he was contractor, the like sums, which together make 664,851 guilders 8 stivers, and computed at 10 guilders 10 stivers to the pound sterling, amount to 63,410*l.* 8*s.* 7*d.*

"Some time after this Evidence was given by sir Solomon de Medina, your commissioners received a letter from the duke of Marlborough by the hands of James Craggs, esq. wherein the duke desires your commissioners, that when they make their Report they would lay some facts before the parliament in a true light, and this justice they think they cannot better do than in his grace's own words.

'Gentlemen; Hague, Nov. 10, 1711.

'Having been informed upon my arrival 'here yesterday, that sir Solomon Medina had 'acquainted you with my having received se-'veral sums of money from him, that it may 'make the less impression upon you, I would 'lose no time in letting you know, that this is 'no more than what has always been allowed

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'as a perquisite to the general or commander in 'chief of the army in the Low-countries, both 'before the Revolution and since; and I do 'assure you, at the same time, that whatever 'sums I have received on that account, have 'constantly been applied for the service of the 'public, in keeping secret correspondence, and 'getting intelligence of the enemies motions 'and designs; and it has fallen so short, that 'I take leave to acquaint you with another ar-'ticle that has been applied to the same use, 'and which arises from her majesty's warrant 'whereof the inclosed is a copy, though this 'does not properly relate to the public ac-'counts, being a free-gift from the foreign 'troops. You will have observed, by the se-'veral establishments, that, before the late 'king's death, when the parliament voted '40,000 men for the quota of England in the 'Low-countries, 21,612 were to be foreigners, 'and the rest English; for the last they gave '10,000 *l.* a year for intelligence, and other 'contingencies, without account; but his ma-'jesty being sensible, by the experience of the 'last war, that this sum would not any way an-'swer that service, and being unwilling to ap-'ply for any more to the parliament, he was 'pleased to order, that the foreign troops should 'contribute 2½ per cent towards it; and I 'being then his ambassador and commander in 'chief abroad, he directed me to propose it to 'them, with an assurance that they should have 'no other stoppage made from their pay; this 'they readily agreed to, and her majesty was 'afterwards pleased to confirm it by her war-'rant, upon my acquainting her with the use it 'was intended for; and it has accordingly 'been applied from time to time for intelligence 'and secret service, with such success, that, 'next to the blessing of God on the bravery of 'our troops, we may, in a great measure, attri-'bute most of the advantages of the war in this 'country to the timely and good advices pro-'cured with the help of this money. And 'now, gentlemen, as I have laid the whole 'matter very fairly before you, and that I hope 'you will allow, I have served my queen and 'country with that zeal and faithfulness which 'becomes an honest man, the favour I am to 'entreat of you, is, that, when you make your 'report to the parliament, you will lay this 'part before them in its true light, so as that 'they may see this necessary and important 'part of the war has been provided for and 'carried on without any other expence to the 'public than the 10,000 *l.* a year; and I flatter 'myself, that, when the accounts of the army 'in Flanders come under your consideration, 'you will be sensible the service on this side 'has been carried on with all the œconomy 'and good husbandry that was possible. I am, 'Gentlemen, &c. MARLBOROUGH.'

'ANNE *R.*

'Right trusty, and right well-beloved cousin 'and counsellor, we greet you well. Whereas, 'pursuant to the direction you have received in 'that behalf, you have agreed with the persons 'authorised to treat with you for the taking 'into our service a certain number of foreign 'troops, to act in conjunction with the forces 'of our allies, that there be reserved 2½ *per 'cent.* out of all moneys payable to, and for the 'said troops, as well for their pay and enter-'tainment, as on any other account, towards 'defraying such extraordinary, contingent ex-'pences relating to them, as cannot otherwise 'be provided for. Now, we do hereby ap-'prove and confirm all such agreements as you 'have, or may hereafter make, for reserving 'the said 2½ per cent. accordingly; and do 'likewise hereby authorise and direct the pay-'master general of our forces for the time 'being, or his deputy, to make the said deduc-'tion of 2½ per cent. pursuant thereunto, out 'of all moneys he shall be directed to issue, 'for the use of the foreign troops in our pay, 'and thereupon to pay over the same from 'time to time according to such warrants, and 'in such proportions as you shall direct; for 'which this shall be to you, and to all others 'whom it may concern, a sufficient warrant 'and direction. Given at our court at St. 'James's, this 6th day of July, 1702, and in 'the first year of our reign. By her Majesty's 'Command, C. HEDGES.

'To our right trusty, and right well-beloved 'Cousin and Counsellor, John, Earl of 'Marlborough, our Ambassador Extraor-'dinary, and Plenipotentiary to the States 'General of the United-Provinces, and 'Captain-General of our Land-Forces.'

"Your Commissioners having thought themselves obliged to recite this letter and warrant at large, humbly conceive it will be expected that they should make some observations upon them; as to what therefore relates to the evidence of sir Solomon de Medina, his grace has been pleased to admit it in general, but with this distinction, that he claims the sums received, as perquisites to the general in the Low-countries.

"On which your Commissioners observe, that so far as they have hitherto been capable of informing themselves in the constitution of the army, the great sums, which appear to have been annually paid to the duke, on account of these contracts, can never be esteemed legal or warrantable perquisites.

"For they do not find, by the strictest enquiry they can make, that any other English general in the Low-countries, or elsewhere, ever claimed, or received such perquisites; but if any instance should be produced, they humbly apprehend it will be no justification of it, because the public or the troops must necessarily suffer in proportion to every such perquisite; and how agreeable this practice is to that œconomy and good husbandry with which the service in Flanders is said to be carried on, remains yet to be explained. By the assurance his grace is pleased to give, that this money has been constantly employed for the service of the public, it must be either allowed, that he relin-

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quishes his right to this pretended perquisite, or that he has been wanting to himself in concealing so great an instance of his own generosity to the public.

"The great caution and secrecy with which this money was constantly received, gives reason to suspect that it was not thought a justifiable perquisite, for Mr. Cardonnell the duke's secretary, and auditor of the bread-account, has declared on oath, that he never knew or heard of any such perquisite, until the late rumour of sir Solomon de Medina's evidence before your Commissioners. By the contracts for bread, and bread-waggons, the general appears to be the sole check on the contractors; he is to take care that the terms of the contractors are duly performed; he is to judge of all deductions to be made from, and allowance to the contractors; and whether, in such circumstances, he can receive any gratuity, or perquisite from the contractors, without a breach of his trust, your Commissioners presume not to determine. The general may with equal reason claim a perquisite for every other contract relating to the army, as for these of the bread, and bread waggons; but his grace being silent as to this, your Commissioners ought to suppose he has not received any such allowance, unless they shall understand otherwise when they come to examine into those contracts, which hitherto they have not been able to do, by reason the contractors are foreigners, and constantly reside in Holland.

"As to what his grace is pleased to say in the second part of his letter, concerning the deduction of the 2½ per cent. from the foreign troops in her majesty's pay, your Commissioners can only offer such remarks as occur to them, on comparing what is urged in the duke's letter, with the tenor of the warrant, and with the method of accounting for other payments to the army. Your Commissioners in the first place take leave to observe, that this warrant has been kept dormant for 9 years, and the deduction concealed so long from the knowledge of the parliament; for which, in their humble apprehension, his grace has not assigned sufficient reasons.

"He is pleased to say, that this 2½ per cent. is a free gift from the foreign troops, and that it does not belong to the Public Accounts. But the first of these assertions seems inconsistent, not only with the words of the warrant, which supposes and expresses an agreement, but with that part of his grace's letter which takes notice, that he being ambassador and general, stipulated for this very stoppage by the late king's order. Your Commissioners therefore must be of opinion, that a deduction so made is public money, and ought to be accounted for in the same manner as other public money is.

"His grace is further pleased to observe, that the 10,000*l.* granted yearly for the contingencies of the army, is without account, and for the use of the British forces only; whereas this money was at first intended by parliament, as your Commissioners with great submission apprehend, for the service of the 40,000 men, without distinction. And they find it is so far from having always been thought exempt from account, that in a privy seal dated the 5th day of March, 1706, for passing Mr. Fox's accounts, there is a clause to release and discharge the duke of Marlborough, his heirs, executors, and administrators, from a sum of 7,499*l.* 19*s.* 10*d.* part of this money, which supposes his grace would otherwise have been accountable for it. But your Commissioners do not here meet with any mention of this deduction of 2½ per cent. and must therefore presume, the reason why it has never been brought to an account, is what his grace is pleased to suggest, that he never considered it as public money.

"Your Commissioners must submit it to the House, whether the warrant produced to justify this deduction be legal, and duly countersigned; or whether admitting it to be so, either the stoppage, or the payment of it has been regularly made. The warrant directs, that it should be stopt in the hands of the paymaster or his deputy, and issued thence by the duke's order only: But this method does not appear by the paymaster's accounts to have been at all pursued, so far otherwise, that the payments to the foreign troops are always made compleat, and their receipts always taken in full without any notice of this deduction. When any part of the above-mentioned 10,000*l.* contingent-money is drawn out of the paymasters' hands for any secret service, the general's warrant, and the secretary's receipts, are the paymaster's vouchers: But Mr. Cardonnell, as he declares on oath, never gave any receipt for any part of this 2½ per cent. nor did Mr. Bridges, as he also declares on oath, ever see any warrant for that purpose, or knew any thing, as paymaster-general, of this deduction.—If Mr. Sweet at Amsterdam, has taken upon himself to transact the disposition of this 2½ per cent. with the duke of Marlborough, your commissioners are humbly of opinion that he ought to have transmitted constant accounts of it to Mr. Bridges, whose agent he only is, and not to have negociated so large sums of public money in so clandestine a manner.—By the Warrant this deduction is reserved for the defraying extraordinary contingent expences of the troops, from whom it is stopped: And if the whole has been employed in secret correspondence and intelligence, there must have been some neglect of the other services for which it was originally designed; and such a disposition being in no sort authorised by the warrant, is a misapplication of it. Besides, your Commissioners apprehend, that the article for secret service, to which this deduction is pretended to have been applied, was always included in the 10,000*l.* above-mentioned for the contingencies of the army; and, if so, the whole remains to be accounted for; which, on a computation made from the whole sum of 11,294,659*l.* 4*s.* 1½*d.* paid per Britain to, and for all the foreign forces since the 13th Dec.

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1701, (according to the Returns of the auditor and paymaster) amounts to 282,366*l.* 9*s.* 7*d.*— On a computation made from the sum of 7,107,873*l.* 18*s.* 11½*d.* paid to and for the foreign forces since the time aforesaid, (exclusive of Italy, Spain, and Portugal) amounts to 177,695*l.* 17*s.* 0½*d.*

"Your Commissioners humbly lay before you some facts relating to the Forage-contracts, (for the troops in North Britain) made by Robert Walpole, esq. late secretary of war, pursuant to a power given him by Sidney earl of Godolphin then Lord High Treasurer of Great-Britain.

"By the rate allowed in these contracts, it appearing that her majesty had been put to an extraordinary expence above the pay of the soldiers, your commissioners thought it their duty to enquire, whether, in this part of the service, sufficient care had been taken to procure the most advantageous terms for the public; and being informed that John Montgomery, esq. was concerned in these contracts, they examined him, and he declared upon oath, that col. George Douglas, and himself, were assumed partners with sir Samuel Macklellan, and Mr. John Campbell, in the contract made by Mr. Walpole to provide forage from the middle of May, 1709, to May, 1710, for all the troops in North Britain at 3*d.* an horse for green, and 9*d.* for dry forage, each 24 hours.

"That the said colonel George Douglas, and he the said Mr. Montgomery, were also assumed partners with Mr. John Campbell in a subsequent contract, commencing in May, 1710, and ending in May, 1711, made likewise by Mr. Walpole, and at the same rates with the former.

"That the first of these contracts was made by Mr. Walpole in London with sir Samuel Macklellan, who before he went into Scotland told the said Montgomery, that Mr. Walpole, in making the contract, reserved a share for a friend of his, who was to have the benefit of a fifth part, if not redeemed by the contractors with a sum of money; and sir Samuel soon after, on his death-bed, at Edinburgh, declared the same: Whereupon, colonel Douglas, and Mr. John Campbell, directed him, the said Mr. Montgomery, to pay 500 guineas to the said Mr. Walpole: And accordingly he delivered into Mr. Walpole's own hands a note for that sum, payable to Mr. Walpole, or order; And the said Montgomery, afterwards, paid the sum of 500 guineas to one Mr. Man, Mr. Walpole's agent; who gave him up the note, with the receipt on the back of it signed by Mr. Walpole. That the second contract was made by Mr. Walpole, with Mr. John Campbell; who, thereupon, directed the said Montgomery to give a note for 500 guineas or pounds, he could not remember which, to Mr. Walpole, which he accordingly did; and made it payable to Mr. Walpole, or order; and delivered it into his own hands. This second note was left with the said Mr. Man; of which the said Mr. Montgomery hath paid about 400*l.*

"He further declared upon oath, That 200 guineas were given by the contractors to sir David Dalrymple, in consideration, That his son-in-law, sir Alexander Murray, was proposed, but not admitted, to be a partner in the first contract: That the earl of Leven, commander in chief of her majesty's forces in North Britain, had 100 guineas each year, from the contractors, for regulating the quarters of the troops: That 100*l.* a year were paid to Mr. Merrill, deputy to Mr. How, for receiving the queen's bounty-money, and keeping an account of it between the queen and her officers: That the said Mr. Montgomery gave a note for 50*l.* to Mr. Taylor, chief clerk to Mr. Walpole; which is not yet paid.

"Your Commissioners cannot exactly state the loss the public has sustained by these contracts; but find, That if the forage had been furnished in 1709, and 1710, at the rates settled by the contract for the present year, there had been saved to the government more than 9,500*l.* which is near a fourth part of the whole charge.

"They do not apprehend, That this difference has arisen, altogether, from the scarcity of forage in the two last years: for captain William Preston, of col. Kerr's regiment, hath declared before them, on oath, That he agreed with the contractors to furnish green forage for his own troops, in those years, at 2½*d.* an horse, for 24 hours, which cost the government 3½*d.* with an addition only of 7*l.* each year, for providing extraordinary forage for the officers' horses belonging to that troop; and that the contractors assured him, they had made the same agreement with other officers. How far these practices have been injurious to the public, is humbly submitted to the consideration of the House. (Signed) Geo. Lockhart, Hen. Bertie, S. Winnington, Fra. Annesley, Tho. Lister, Will. Shippen, H. Campion."

Ordered, That the said Report be taken into consideration upon Thursday the 17th day of January next.

The Commons adjourn to the 14th of January.] Dec. 22. The queen being indisposed, the lord-keeper, the lord-president, and other lords, were commissioned to pass the land-tax bill for 4*s.* in the pound, which was ready for the royal assent, with the bill against Occasional Conformity. After which, the Commons adjourned to the 14th of January, which was a long recess at so critical a time.

The Lords' Address concerning the Peace.] Before the Lords adjourned, a motion was made by the duke of Devonshire, for leave to bring in a Bill to give the Electoral Prince of Hanover, as duke of Cambridge, the precedence of all peers; which was granted, and so was likely to meet with no opposition. The earl of Nottingham moved next, that, before their recess, they should make an Address to the queen, desiring,

"That her majesty would be pleased to give instructions to her plenipotentiaries, to consult with the ministers of the allies in Holland, before the opening of the congress, that they

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might concert the necessary measures to preserve a strict union amongst them all, the better to obtain the great end proposed by her majesty, for procuring to them all just and reasonable satisfaction, and for rendering the peace more secure and lasting, which could only be effected by a general guaranty of terms of the peace to all the allies, and of the Protestant Succession to these kingdoms, as settled by act of parliament."*

All the opposition, which the Court made to this, was to shew that it was needless, since it was already ordered; and the Lord-Treasurer said, that the Lords might, in order to their satisfaction, send to examine their instructions. To this, it was answered, That the offering such an Address would satisfy the plenipotentiaries, in executing their instructions. The Court moved, these words might be put into the Address, "in case her majesty had not already given such orders;" which being agreed to, the Address was presented on the 27th of December, and the Lords adjourned no longer than the 2d of January, which, as well as the Address, was no small surprize to the queen and her ministers.

The Duke of Marlborough turned out of all his Employments on pretence of Bribery.] During the recess it was, that the duke of Marlborough was discharged from all his employments. "In order to this," says Tindal, "all the methods, that malice and envy could invent, were used to make him appear criminal. But the discoveries made by the Commissioners for examining the Public Accounts, were made the immediate cause of his disgrace. Sir Solomon Medina, a Jew, concerned in the contract for furnishing bread to the army in Flanders, made a present yearly to the duke of Marlborough of between 5 or 6,000*l.* The general of the States, it seems, had the like present, as a perquisite to support his dignity, and to enable him to procure intelligence. The queen ordered 10,000*l.* a year more to the duke of Marlborough for the same service. King William had also agreed, that 2½ per cent. should be deducted out of the pay of the foreign troops, which amounted to 15,000*l.* This the queen had by a warrant appointed the duke of Marlborough to receive on the same account.

"The duke having heard, while he was beyond sea, that the Commissioners had discovered the present made him by the Jew, sent them a letter, on the 10th of November, N. S. from the Hague, wherein he owned the whole matter to be true; and added, he had applied these sums to the procuring good intelligence, to which, next to the blessing of God on the bravery of the troops, their constant successes were owing. This did not satisfy the Commissioners; but, though no complaints were brought from the army of their not being constantly supplied with good bread, yet, they saw here was matter to raise a clamour against the duke, which they chiefly aimed at. Accordingly, the Commissioners reported these things to the House of Commons, on the 21st of Dec., the day before their recess, and the next day, pursuant to an order of the House, Mr. Shippen, one of the Commissioners, laid before them: First, the deposition of sir Solomon de Medina, knight, proving great sums of money taken by his grace John duke of Marlborough, Adam Cardonnel, esq., his grace's secretary, and others, on account of the contracts for supplying Bread and Bread-waggons to her majesty's forces in the Low-Countries. Secondly, capt. William Preston's Deposition about forage in North-Britain. Upon this the duke of Marlborough's Letter, which he had writ in vindication of himself to the Commissioners, was, by his order or contrivance, published in the Daily Courant of the 27th of December. This letter having made an impression in his favour on the minds of many persons, the Report of the Commissioners was, by way of Answer, printed at large two days after; and the next day, the 30th of December, the queen declared in council, "That, being informed an information against the duke of Marlborough was laid before the House of Commons, by the Commissioners of the Public Accounts, she thought fit to dismiss him from all his employments, that the matter might take an impartial examination." This declaration was entered in the Council-Books; and the day following it was notified to the Duke, by a Letter under her own hand, "That her intention was to resume all the employments she had intrusted him with; complaining, at the same time, of the treatment she had met with." This appears from the Duke's Answer, which he sent by the countess of Sunderland, one of his daughters:

"'Madam; I am very sensible of the honour 'your majesty does me, in dismissing me from 'your service by a letter of your own hand; 'though I find by it, that my enemies have 'been able to prevail with your majesty to do 'it, in the manner that is most injurious to 'me. And, if their malice and and inveteracy 'against me had not been more powerful with 'them, than the consideration of your majesty's 'honour and justice, they would not have influenced you to impute the occasion of my 'dismission to a false and malicious insinuation, contrived by themselves, and made public 'when there was no opportunity for me to give 'in my answer; which, they must needs be 'conscious, would fully detect the falshood 'and malice of their aspersions, and not leave 'them that handle for bringing your majesty 'to such extremities against me.—But I am 'much more concerned at an expression in 'your majesty's letter, which seems to complain 'of the treatment you had met with. I know 'not how to understand that word, nor what

* "Dec. 23. The Lords made yesterday two or three votes about peace and Hanover, of a very angry kind, to vex the ministry, and they will meet sooner by a fortnight than the Commons; and they say, are preparing some knocking Addresses." Swift's Journal.

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'construction to make of it. I know I have 'always endeavoured to serve your majesty 'faithfully and zealously through a great many 'undeserved mortifications. But if your ma'jesty does intend by that expression, to find 'fault with not my coming to the cabinet coun'cil, I am very free to acknowledge, that my 'duty to your majesty and my country would 'not give me leave to join in the counsel of 'a man, who in my opinion puts your majes'ty upon all manner of extremities. And it is 'not my opinion only, but the opinion of all man'kind, that the friendship of France must needs 'be destructive to your majesty, there being 'in that court a root of enmity irreconcileable 'to your majesty's government, and the reli'gion of these kingdoms. I wish your majesty 'may never find the want of so faithful a ser'vant, as I have always endeavoured to ap'prove myself to you. I am with the greatest 'duty and submission, Madam, your majesty's 'most dutiful, and obedient subject, MARL'BOROUGH.'

"The removal of the duke of Marlborough was thought very extraordinary, after such long and eminent services; and was so little expected, that those, who looked for precedents, could find none since the disgrace of Belisarius in Justinian's time. The only thing pretended to excuse it was, his being considered as the head of those, who opposed the peace, on which the court seemed to set their hearts."

A Resolution to remove the Duke of Somerset, put off.] The duke of Somerset continuing to oppose the schemes of the new ministers, it was also resolved, in a consultation about the middle of December, to remove him.* But the great friendship between the queen and his duchess (who was groom of the stole, and first lady of the bed-chamber) prevented that resolution from being then put in practice. The duke was not removed till the 26th of January, and, though endeavours were used to the contrary, his duchess was by the queen continued in her places, which she offered to resign.

The duke of Marlborough's disgrace was attended with other removes, and made way for several promotions. The duke of Ormond, with the first regiment of foot-guards, was appointed commander in chief of all the forces in Great-Britain, and soon after, upon the elector of Hanover's refusal to command the queen's forces in Flanders, captain-general of all her forces at home and abroad. The earl Rivers was made master-general of the ordnance, and colonel of the royal regiment of horse-guards. The duke of Beaufort was appointed captain of the band of pensioners; and brigadier Hill lieutenant of the Tower, in the room of lieutenant-general Cadogan. The countess of Sunderland and the lady Rialton, two of the duke of Marlborough's daughters, resigned their places of ladies of the bed-chamber.

Twelve new Peers created.] The ministers, finding the majority of the House of Lords could not be brought to favour their designs, resolved to make an experiment, which none of our princes had ventured on in former times. A resolution was taken up very suddenly of making twelve peers all at once, which was accordingly done on the last day of December, by calling up by writ to the House of Lords James lord Compton, eldest son to the earl of Northampton, and Charles lord Bruce, eldest son to the earl of Ailsbury; and creating by patent ten new peers of Great Britain; George Hay, or lord Duplin, of the kingdom of Scotland, the lord-treasurer's son-in-law, baron Hay, of Bedwarden in the county of Hereford; the lord viscount Windsor of Ireland, baron Montjoy, of the Isle of Wight, in the county of Southampton; Henry Paget, son to the lord Paget, baron Burton, of Burton, in the county of Stafford; sir Thomas Mansel, baron Mansel, of Margam, in the county of Glamorgan; sir Thomas Willoughby, baron Middleton, of Middleton, in the county of Warwick; sir Thomas Trevor, baron Trevor, of Bromham, in the county of Bedford; George Granville, baron Lansdowne, of Biddeford, in the county of Devon; Samuel Masham, baron Masham, of Oates, in the county of Essex; Thomas Foley, baron Foley, of Kidderminster, in the county of Worcester; and Allen Bathurst, baron Bathurst, of Battlesden, in the county of Bedford. Sir Miles Wharton had been offered a peerage; but he thought it looked like the serving a turn, and that, whereas peers used to be made for services, which they had done, he should be made for services to be done by him; and therefore excused himself from accepting it; and the favourite's husband, Mr. Masham, was put in his room. And whereas formerly Jefferies had the vanity to be made a peer, while he was chief justice, which had not been practised for some ages; yet the precedent set by him was followed, and Trevor, chief-justice of the common pleas, was now advanced to be a peer. This creation of peers was looked upon as an undoubted part of the prerogative; so that there was no ground in law to oppose the receiving the new lords into the House; nor was it possible to raise in the antient peers a sense of the indignity, which was now put upon their House; since the court did by this openly declare, that they were to be kept in absolute submission and obedience.

The Queen's Message to the Lords to adjourn disputed, but obeyed.] January 9, 1712. The twelve new peers were introduced into the

* "December 29. Saturday night. I have broke open my letter, and tore it into the bargain; to let you know, that we are all safe; the queen has made no less than 12 lords to have a majority; nine new ones, the other three peers sons; and has turned out the duke of Somerset. She is awaked at last, and so is Lord Treasurer: I want nothing now but to see the duchess out. But we shall do without her. We are all extremely happy." Swift's Journal.

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House of Lords without any opposition;* and, the court-party having by this reinforcement, and by the coming up of the Scots lords, got the majority, the House acquiesced in the queen's Answer to their late Address, importing, "That her majesty thought her Speech to both Houses would have given satisfaction to every body: and, that she had given instructions to her plenipotentiaries, according to the desires of that Address." This done, the Lord-Keeper delivered to the House a Message from the queen, "That, having matters of great importance to communicate to both Houses of parliament, she desired the Lords to adjourn immediately to the 14th, the same day, to which the Commons had adjourned themselves." This occasioned a very warm debate. It was said, that the queen could not send a Message to any one House to adjourn, when the like Message was not sent to both Houses: that the pleasure of the prince in convening, dissolving, proroguing, or ordering the adjournment of parliaments, was always directed to both Houses, but never to any one House, unless the same intimation was made at the same time to the other. That the consequence of this, if allowed, might be the ordering one House to adjourn, while the other was left still to sit; and this might end in a total disjointing of the constitution. The Resolution however was carried for adjourning by the weight of the twelve new peers. It is true, the odds were 13; but that was, because one of the peers, who had a proxy, without reflecting on it, went away when the proxies were called for.†

The court having received no news of the opening the congress, councils were held on Saturday and Sunday the 12th and 13th of January, in which it was debated, Whether the parliament should sit, or be desired further to adjourn themselves? and, it being carried for the adjournment, a Message was on the 14th sent to both houses, importing, "That her majesty fully determined to have been personally present in parliament that day; but, being prevented by a sudden return of her gout, her majesty, in hopes she might, by the blessing of God, be able to speak to both her houses of parliament on Thursday next, the 17th of this instant January, desired them to adjourn to that day." Both houses readily complied with this Message; but, before the same was delivered by Mr. St. John to the Commons, they ordered their Speaker to issue out writs, for the electing nine members in the room of those called up to the house of peers.*

The Queen's Message to the Parliament concerning a Peace: the Scots Peers: the number of Libels, &c.] Jan. 17. The parliament being met again, a Message from the queen

* "Jan. 2. This being the day the Lords meet, and the new peers to be introduced, I went to Westminster to see the sight; but the crowd was too great in the House. So I only went into the robing-room, to give my four brothers joy, and sir Thomas Mansel, and lord Windsor; the other six I am not acquainted with. It was apprehended the Whigs would have raised some difficulties, but nothing happened." Swift's Journal.

† "This Message for adjourning seems only to have been sent to try the strength of both parties, Mr. Secretary St. John having been heard to say in the Court of Requests, as soon as the debate was over, 'That, if those twelve had not been enough, they would have given them, [the Whigs] another dozen.' However, very strong reflections were made, both in print and in most conversations, on that step, many not scrupling to say, 'That, though the queen had an undoubted right to create as many peers as she pleased, yet her ministers might be called to an account for advising her to abuse that right. That peace and war were also the prerogatives of the crown; and yet the engaging in a ruinous war, or making a treacherous peace, are things, which no minister ever did, and escaped uncensured or unpunished. That the creating twelve peers, to serve a turn, was, in effect, making a house of peers a property to the Court, and taking away a negative upon the crown; which would render our liberties precarious. That it could not be denied, that the new-made peers were men of noble fortunes; and that some of them had shewn a commendable zeal for the present establishment; but who would secure us, that hereafter such a number should not be made of men of a quite different character? and, in short, that this was a precedent, which might be made use of to inslave the nation, and to introduce a popish pretender, or the popish religion. That if in the reign of such a queen this abuse of the prerogative was so much exclaimed against, how much greater would the cry have been, had it been in a suspicious reign? whereas now they have an unexceptionable instance to produce, to silence any clamour or noise. That it was impossible for men, who owed so much to her majesty for her share in the late Revolution, to oppose a prerogative, that had never been disputed, because never used in that manner: but had any prince, who had merited less of his country, began such a thing, it would, no doubt, have been opposed, and perhaps denied him.' But, after all, the severest reflection upon the twelve new peers was made by the earl of Wharton, who, the same day they were introduced, when the question about adjourning was going to be put, asked one of them, 'Whether 'they voted by their foreman?' thereby comparing them to a petty jury." Boyer.

* "Jan. 14. The parliament was to sit today; and met; but were adjourned by the queen's directions till Thursday. She designs to make some important speech then. She pretended illness; but I believe they were not ready, and they expect some opposition; and the Scots lords are angry, and must be pacified." Swift's Journal.

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was delivered to both Houses. That to the Commons was as follows:

"ANNE R.

"1. Her majesty not having recovered strength enough, since the return of the gout, to be present this day in person; and being unwilling, that the public business should receive any delay, thinks fit to communicate to them the substance of what she intended to have spoke.

"2. At the opening of this session, her majesty acquainted the parliament, that both time and place were appointed for the meeting of the plenipotentiaries of all the confederates, to treat with those of the enemy concerning a General Peace; and also expressed the care, which she intended to take of all her allies, and the strict union, in which she proposed to join with them, in order to obtain a good Peace, and to guaranty and support it, when obtained.

"3. Her majesty can now tell them, that her plenipotentiaries are arrived at Utrecht, and have begun, in pursuance of their instructions, to concert the most proper ways of procuring a just satisfaction to all in alliance with her, according to their several treaties, and particularly with relation to Spain and the West-Indies.

"4. You may depend on her majesty's communicating to her parliament the terms of peace, before the same shall be concluded.

"5. The world will now see, how groundless those reports are, which have been spread abroad by men of evil intentions, to serve the worst designs, as if a Separate Peace had been treated, for which there has not been the least colour given.

"6. Her majesty's ministers have directions to propose, that a day may be fixed for the finishing, as was done for the commencement of this Treaty; and, in the mean time all the preparations are hastening for an early campaign.

"7. The zeal, which this House has already expressed, was a sure pledge, that they will proceed in giving the necessary dispatch to the supplies.

"8. Her majesty finds it necessary to observe, how great licence is taken in publishing false and scandalous Libels, such as are a reproach to any government. This evil seems to be grown too strong for the laws now in force; it is therefore recommended to you to find a remedy equal to the mischief."

The Message the queen sent to the House of Lords, was exactly the same with that sent to the Commons; except only, that instead of the seventh paragraph, about the supply, her majesty took notice of the affair relating to the Scots Peers, in the following words: "There is one thing in which her majesty's subjects of the north part of this kingdom are extremely concerned: the distinction such of them who were Peers of Scotland before the Union must be under, while prerogative of the crown is strictly guarded against them alone. This is a matter which sensibly affects her majesty, and she therefore lays it before this House, earnestly desiring their advice and concurrence in finding out the best method of settling this affair, to the satisfaction of the whole kingdom."

The Lords' Address thereon.] Jan. 18. The House of Lords, in a body, waited on the Queen with the following Address:

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to express our extreme concern for the continuance of your majesty's indisposition, by which we were deprived of the honour of your royal presence; and at the same time beseech your majesty to accept of the most humble thanks of this House for your most gracious Message on the 17th instant, wherein your majesty is pleased to express your just care for all your allies, and the strict union in which your majesty proposed to join with them in order to obtain a good Peace, and to guaranty and support it when obtained; and for the instructions your majesty has given to your plenipotentaries, to concert the most proper way of procuring a just satisfaction to all in alliance with your majesty, according to their several treaties, and particularly with relation to Spain and the West Indies, which are of so great concern to the safety and commerce of your majesty's kingdoms.—We think ourselves obliged more especially to return our humblest acknowledgements for your majesty's great condescension in acquainting this House with the steps already taken in relation to the Peace, and for the assurance your majesty is pleased to give of communicating to this House the terms of the Peace before the same shall be concluded. Your majesty's declaration, that there has not been the least colour given for those false and scandalous reports that have been spread, that a Separate Peace has been treated, must be the highest satisfaction to all your people: and we readily embrace this opportunity to assure your majesty, that we entirely rely upon your great wisdom, in settling the terms of peace."

The Queen's Answer.] Her majesty's Answer was as follows;

"My lords; I return you my most hearty thanks for this Address, and for the confidence you place in me, which will better enable me to obtain such terms as may be safe and honourable for my own subjects, and all our allies."

The Commons' Address.] The Address of the Commons was as follows:

"Most gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, appear before your majesty, with the greatest satisfaction, to return our most humble thanks for your majesty's most most gracious Message.—Your majesty has, on all occasions, shewn such a tenderness and regard to the welfare of your people; and such

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a generous and disinterested concern for the support and advantage of your allies, in so many instances, during the prosecution of the present war; that we have no reason to doubt your majesty's care of both, in a Treaty of Peace; and that the most proper ways will be concerted of procuring a just satisfaction to all in alliance with your majesty, according to their several treaties; and particularly, with relation to Spain, and the West-Indies: however, we think ourselves obliged, with the greatest gratitude, to acknowledge your majesty's goodness and condescension, in promising to communicate to your parliament the terms for a General Peace, before the same shall be concluded: and this, if any thing can, must intirely silence those seditious reports, that have been industriously and maliciously spread abroad, to the dishonour of your majesty, that a Separate Peace has been treated; which can have been raised only by some factious incendiaries; who, to cover their own disaffection to the present establishment and administration, and such designs as they have not dared publicly to own, endeavour to distract your subjects with unreasonable and groundless distrusts and jealousies.—Your majesty's approbation of the zeal your faithful Commons have already expressed for raising the necessary supplies, will engage them to continue their application, and to give all possible dispatch thereunto.—We are very sensible how much the Liberty of the Press is abused, by turning it into such a licentiousness as is a just reproach to the nation; since not only false and scandalous libels are printed and published against your majesty's government, but the most horrid blasphemies against God and religion: and we beg leave humbly to assure your majesty, That we will do our utmost to find out a remedy equal to this mischief, and that may effectually cure it."

The Queen's Answer.] Her majesty gave this Answer:

"I have received so many proofs of the loyalty of this House of Commons, and of their love of our country, that the best answer which I can return to this most dutiful Address is, to give you my hearty thanks for it; and to repeat not only that good opinion which I have of my Commons, but also my assurances, that the confidence which you place in me shall be answered by my utmost endeavours to promote the safety and advantage of all my subjects."

A Bill giving Precedence to the House of Hanover.] The duke of Devonshire, pursuant to the motion he had made before the recess, having prepared a Bill for giving precedence to the duke of Cumbridge, the Lord-Treasurer was resolved to prevent him, and offered, January 17, a bill, giving precedence to the whole electoral family, as the children and nephews of the crown; and it was intimated, that bills relating to honours and precedence ought to come from the crown: the duke of Devonshire would make no dispute on this head; if the thing passed, he acquiesced in the manner of passing it, only he thought it lay within the authority of the House. On this occasion, the Court seemed, even to an affectation, to shew a particular zeal in promoting this bill; for it passed through both Houses in two days. Notwithstanding this haste, the Court did not seem to design any such bill, till it was proposed by others, out of whose hands they thought fit to take it. The act was sent over to Hanover, by Mr. Thomas Harley, in order to raise favourable thoughts there of the ministry. But that Court saw through these thin disguises, which were contradicted by the open countenance to those who were no well-wishers to the Protestant Succession, and the discouragement to its best friends.

Debate concerning the Scots Peers.] The Lords entered upon the consideration of the paragraph in the queen's Message, relating to the Peers of Scotland. The Court proposed that an expedient might be found that the Peers of Scotland should not sit among them by election, but by descent, in case the rest of the peers of that nation should consent to it. A debate followed concerning the Articles of the Union, which of them were fundamental and not alterable; it was said, that by the Union no private right could be taken away, but by the consent of the persons concerned; therefore no alteration could be made in the right of the Peers of Scotland, unless they consented to it. It was afterwards debated, whether an alteration might be made with this condition, in case they should consent to it; or whether the first rise to any such alteration ought not to be given, by a previous desire. This was not so subject to an ill management; the Court studied to have a subsequent consent received as sufficient: but a previous desire was insisted, as visibly fairer and juster.

The Scots Lords, seeing no redress to their complaint, but that the Peers adhered to their late judgment, seemed resolved to come no more to sit in the House of Lords; but the Court was sensible, that their strength, in that House, consisted chiefly in them and the new Peers; for which reason pains were taken, and secret forcible arguments were used to them, which proved so effectual, that after a few days absence they came back, and continued, during the session, to sit in the House. They gave out, that an expedient would be found, that would be to the satisfaction of the Peers of Scotland; but, nothing of that appearing, it was concluded, that the satisfaction was private and personal. The great arrear, into which all the regular payments, both of the houshold and of salaries and pensions, was left to run, made it to be generally believed, that the income for the civil list, though it exceeded the establishment very much, was applied to other payments, which the ministers durst not own. And, though secret practice on members had been for a great while too common, yet it was believed, that it was at this time managed with an extraordinary profusion.

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Proceedings of the Commons against Mr. Robert Walpole.] On the 17th of January, Mr. Lockhart acquainted the House, from the Commissioners for taking, examining, and stating the Public Accounts, That Mr. Walpole* had, the Monday before, brought Mr. Man to the said Commissioners, with an Affidavit ready prepared, and desired he might be sworn to it: And that the Commissioners did swear him to the same; and afterwards examined him themselves, and took his Answer in writing: and that the Commissioners had directed him to present to the House, the Deposition of Mr. Robert Man, proving, that he is agent to Robert Walpole, esq. and that he has received several sums of money on account of two contracts, for foraging the troops in North-Britain; and also the deposition of Mr. Robert Man. And he presented the same to the House accordingly: and the titles of the said several Depositions were read.

Then the order of the day was read, for taking into consideration the Report from the said Commissioners the 21st of December last whereupon the House proceeded to take into consideration that part of the said Report which relates to the Contracts for Forage in North-Britain: and the same was read, as were also several Depositions of Mr. Man. And Mr. John Montgomery was called in, and examined: and the two notes mentioned in the Report, and several receipts for moneys paid by Mr. Montgomery to Mr. Man were delivered in, and read; and then Mr. Montgomery withdrew.

Ordered, That candles be brought in. And they were brought in accordingly.

And Mr. Walpole was heard in his place: After which, a debate arose in the House, whether Mr. Walpole should withdraw before a question was stated, or any debate had of the matter relating to him. Whereupon the Journal relating to the lord Falkland, in the year 1693; and also the Journal relating to Mr. Ridge, in the year 1710; were read.—Whereupon Mr. Walpole withdrew before any debate was had, or any question proposed, touching the matter relating to him.

A motion being made, and the question being proposed, "That Robert Walpole, esq. a member of this House, in receiving the sum of 500 guineas, and in taking a note for 500*l.* more, on account of two contracts for Forage of her majesty's troops quartered in North Britain, made by him when Secretary at War, pursuant to a power granted to him by the late Lord Treasurer, is guilty of a high Breach of Trust, and notorious Corruption;

An Amendment was proposed to be made to the question, by leaving out these words, "and notorious corruption;" And the question being put, That those words be left out of the question; the House divided. Yeas 155. Noes 207. So it passed in the Negative.

Mr. Walpole committed to the Tower and expelled.] Then the main question being put, "That Robert Walpole, esq. a member of this "House, in receiving the sum of 500 guineas, "and in taking a note for 500*l.* more, on ac-"count of two contracts for Forage of her "majesty's troops quartered in North Bri-"tain, made by him when Secretary at War, "pursuant to a power granted to him by the "late Lord Treasurer, is guilty of a high "Breach of Trust, and notorious Corruption;" The House divided. Yeas 205, Noes 148.

So it was resolved in the Affirmative.

Resolved, "That the said Robert Walpole, "esq. be, for the said offence, committed pri-"soner to the Tower of London, during the "pleasure of this House: and that Mr. Speaker "do issue his warrants accordingly."

Then a motion being made, and the question put, That the House do now adjourn, Yeas 156, Noes 168. So it passed in the Negative.

Then a motion being made, and the question being put, "That the said Robert Walpole, "esq. be, for the said offence, also expelled "this House:" The House divided. Yeas 170, Noes 148. So it was resolved in the Affirmative.

Mr. Coxe's Account of the Proceedings against Mr. Walpole.] "The Tories having attempted to arraign the measures of their predecessors in office, turned their principal objections against the management of the Revenue; a topic on which it was most easy to delude the public mind, by introducing a series of complicated calculations. This attack was principally levelled against Godolphin, who was accused of having profusely lavished the public money, and not having accounted for the sums voted by parliament. When several of his former adherents in the House of Commons deserted the ex-minister, a few defended his cause, and argued that the clamours raised against him, were merely the effusions of malice and calumny. The insi-

* "Jan. 17. I went this morning to the duke of Ormond about some business; and he told me he could not dine with us to-day, being to dine with prince Eugene. Those of our society of the House of Commons could not be with us, the House sitting late on Walpool. I left them at nine, and they were not come. We kept some dinner for them. I hope Walpool will be sent to the Tower, and expelled the House: but, this afternoon the members I spoke with in the Court of Requests talked dubiously of it. It will be a leading card to maul the duke of Marlborough for the same crime, or at least to censure him. The queen's message was only to give them notice of the peace she is treating, and to desire they will make some law to prevent libels against the government; so farewell to Grub-street.

"Jan. 18. I heard to-day that the commoners of our society did not leave the parliament till eleven at night, then went to those I left, and stayed till three in the morning. Walpool is expelled, and sent to the Tower." Swift's Journal.

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dious attack was masqued under the plausible appearance of appointing a Committee for examining and stating the Public Accounts. St. John employed all the powers of his eloquence to shew the necessity of taking into consideration the national expenditure; maintained that none but those who were enemies to their country, or who would themselves plunder the treasury, would be so bold as to oppose the inquiry; and supported his arguments with the most ardent affectation of zeal for the church and constitution.

"No sooner had St. John ceased speaking, than Walpole rose with great spirit to vindicate his patron from the imputation of corruption and malversation. He did not, however, condescend to make any reply to the hypocritical asseveration of St. John, in regard to religion, but confined his remarks to the subject of debate. He explained, in a calm and distinct manner, the accounts of the public expenditure, and confirmed the truth of his report, by the original receipts, and the most authentic testimonies. After having proved that the inquiry was founded on party animosity, he concluded by observing, 'If he is accused, who cannot 'be charged, with any crime, or any just sus-'picion of a crime, and whom the member who 'spoke last could neither fear nor hate, take 'heed lest the constitution should receive a 'wound through his sides. It is obvious, how 'much the multitude is under the influence 'of bribery, it is obvious, that the people of 'England are at this moment animated against 'each other, with a spirit of hatred and ran-'cour. It behoves you, in the first place, to 'find a remedy for those distempers, which at 'present are predominant in the civil constitu-'tion, and unless you reject this enquiry with 'becoming indignation, I leave you to conjec-'ture the situation to which this kingdom and 'government are likely to be exposed.' But the zeal and eloquence of Walpole had no effect; for the Committee was appointed, consisting of persons principally Tories, and two notorious Jacobites; all previously determined to arraign the proceedings of the former administration. The result of their inquiry was given in a most extraordinary Report, which passed the House on the 12th of April, and was presented to the queen on the same day. After stating the great arrears due from public taxes, many embezzlements and scandalous abuses, evil mismanagement in public offices, and misapplication of parliamentary supplies, it boldly asserted, 'That of the monies granted by par-'liament, and issued for the public service to 'Christmas, 1710, there remains unaccounted 'for, the sum of 35,302,107*l.* for a great part 'of which no accounts have so much as been 'laid before the auditors; and for the rest, 'though some accounts have been brought in, 'yet they have not been prosecuted by the ac-'countants, and finished.' This unqualified reproach cast by the House of Commons on the ex-ministers, had for a short time a prodigious effect in increasing the unpopularity of the Whigs. The people conceived it to be impossible, that the Commons would advance such an assertion, without the most convincing proofs in its favour. A general belief gained ground, that the nation had been deceived and betrayed; fresh confidence was placed in the new ministers, who thus displayed their care for the people, and proved their capacity by contriving such means as might ascertain and discharge so vast a debt.

"In opposition to these accusations, Walpole again came forth as the champion of his colleagues, and published "The Debts of the Nation stated and considered," and the "Thirty-five Millions accounted for." In these publications, the author, who is called by Arthur Mainwaring 'the best master of figures of any 'man of his time,' gave, in a small compass, so accurate a scheme of the public debts, especially of the navy, together with the management of the revenues, the anticipations, the debts, and the reasons and necessity of them, as entirely undeceived the public, and refuted the calumnies which had been so industriously raised. He proved, in a clear and satisfactory manner, that the Debt of the Navy, which was estimated at 5,130,539*l.* did not exceed 574,000*l.*; and that of the whole 35,000,000*l.* all but 4,000,000*l.* had been accounted for.

"Walpole had distinguished himself too ably in the House of Commons, and by his publications had proved himself too warm a friend of the fallen ministry, and too powerful an adversary to the reigning administration, not to be singled out as one of the sacrifices to be made at the shrine of party vengeance. His expulsion, therefore, from the House of Commons was resolved, and a meeting held by the leaders of the opposite party for the purpose of consulting on the means of proceeding. But the injustice of this act was esteemed so flagrant, and the imputations of guilt so faint and false, that many of those who had united to overturn the late administration, declared their aversion to this malicious design. Bromley, however, removed their scruples, by declaring that the expulsion of Walpole was the *unum necessarium*, as they could not carry on the business, if he was suffered to continue in the House. It is no wonder, therefore, that his enemies, who could command a majority, should find a plausible pretext. The Commissioners of Public Accounts laid a charge of venality and corruption against him for Forage Contracts in Scotland while he was Secretary at War. They accused him of having taken, in two contracts, two notes of hand, one for 500 guineas, the other for 500*l.* the first of which had been paid, and a receipt given in his name, and of the other 400*l.* was paid. It appeared, from examining of the witnesses, on oath, that the contractors, rather than admit into their partnership Robert Mann, agent for Walpole, who, according to the tenor of the original agreement, reserved a share for a friend, to have a benefit of the fifth part, if not redeemed by the contractors with a sum of money, had preferred

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paying the 500 guineas and 500*l.*; and that Mann had received the money for the first note, and had obtained the second note as a deposit for the sum specified to be paid.

"In consequence of these reports, Walpole was heard in his own defence, though no particulars of his speech are preserved in the proceedings of parliament: after he had withdrawn, a warm debate took place, which lasted till past ten at night. His friends, on this occasion, supported him with so much zeal, that the House was divided four times in the same sitting; and the ministers, who carried all political questions in this session with only a trifling opposition, gained the motions for his condemnation and expulsion by a small majority. On the first division, in which Pultney, then his intimate friend, afterwards his most bitter opponent, was teller, the amendment, to leave out the words, "and notorious corruption," was negatived by a majority of 52. The main question passed in the affirmative by 57. The motion for committing him to the Tower by only twelve; and his expulsion was decreed by 22. These small majorities sufficiently prove, either, that Walpole possessed great personal influence in the House, or that many of the Tories considered his accusation a scandalous prosecution, and would not give their votes against him. The House however resolved, 'That Robert Walpole, esquire, was guilty of a 'breach of trust, and notorious corruption: 'That he should be committed prisoner to the 'Tower of London;' and on a subsequent motion, which was carried only by a majority of 22 votes, 'That he should be expelled.'

"On the next morning, Walpole surrendered himself a prisoner, and was committed to the Tower. It was expected, that he would have petitioned, and submitted himself to the censure of the House; but he refused making any concession which could imply a consciousness of guilt, and he therefore remained a prisoner until the prorogation of parliament. In the mean time a new Writ being issued for Lynn, he was re-chosen for that borough; but a petition being made against the return, by Samuel Taylor, the opposing candidate, the Commons resolved, 'That having been expel-'led this House for an high breach of trust in 'in the execution of his office, and notorious 'corruption, when secretary at war, he was in-'capable of being re-elected a member to serve 'in the present parliament.'

"While he remained a prisoner, he was considered as a martyr to the cause of the Whigs, and repeatedly visited by persons of the highest distinction and abilities, particularly by the duke and duchess of Marlborough, Godolphin, Sunderland, Somers and Pultney; and his apartment exhibited the appearance of a crouded Levee.

"During his confinement, he had sufficient leisure to compose a clear and judicious vindication of himself, which was published under the title of "The Case of Mr. Walpole, in a Letter from a Tory Member of Parliament to his friend in the Country." In this masterly defence, he fully justifies himself, and appeals to evidence, taken upon oath, against the two principal charges, high breach of trust and notorious corruption. In regard to high breach of trust, he shews that he had no advantage in the contracts; that he was not the only person concerned in making them, and that they were settled on the best and most advantageous terms to be obtained at the time. In reply to the charge of notorious corruption, he proves that a share in the contract being given to his friend, Robert Mann, the contractors preferred paying him a sum of money in recompence for his share; that the contractor, who had negociated this bargain with Mann, dying, the other not knowing his name, made the note of hand payable to Walpole or order, for the use of his friend; that the note was endorsed by himself only for form, and the money received by Mann was for his own use and benefit, and that Walpole had not the least interest directly or indirectly, in this affair.

"I have been thus particular in stating the defence of Walpole, because it gives strong proofs of his innocence, and was never fairly and candidly answered; because some of the very persons who visited him in prison, and not only defended but applauded his conduct in this instance, afterwards, when in opposition, reproached him with the commission of this very crime, of which they had publicly and formally absolved him; and because some late writers, of different principles, have stigmatised his memory, without having sufficiently examined his defence.

"This imprisonment has been called the prelude to his rise; and lord Lansdowne, who was afterwards consigned to the same apartment, wrote these lines under Walpole's name, which he had left on the window:

'Good unexpected, evil unforeseen,
'Appear by turns, as fortune shifts the scene;
'Some rais'd aloft, come tumbling down amain,
'And fall so hard, they bound and rise again.'

"The ministry having protracted the session by adjournment, instead of ending it by prorogation, merely to detain him in prison, Walpole was not released until the 8th of July. From that period till the dissolution, which took place on the 8th of August 1713, being incapacitated from serving his party in the House of Commons, he exerted himself in maintaining the union of the Whigs, in conciliating the leaders, often discordant in their opinions, jealous of each other, or lukewarm in their conduct. He was a principal director of their counsels, and the great manager of their deliberations. The magnanimity and cheerfulness with which he acted and suffered, his liberality in expending large sums in procuring intelligence, and promoting the Protestant Succession, the hospitality with which he entertained his political associates, endeared him to the party, animated their counsels, and contributed to preserve them from defection. The heavy

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expences incurred by these means, injured his private fortune, and involved him in pecuniary embarrassments; a circumstance which perhaps gave rise to, or at least sanctioned the report, afterwards industriously circulated by opposition, of his being a needy adventurer, who had not credit enough to raise 100*l.* on his own security. The gratitude he afterwards displayed to those persons who accommodated him with money at a considerable risk, does honour to his character.

"During this period, he ably employed his pen in the service of his party. He assisted Steele in several political pamphlets; and published an Answer to the Vote of the House of Commons, that the States General had been deficient in their proportion of troops, and that the queen had paid subsidies to the amount of three millions of crowns above the sum stipulated.

"His zeal and exertions were so conspicuous, that he received a flattering testimony of esteem, in a visit which he paid to Godolphin, while confined with his last illness at St. Alban's, in the house of the duchess of Marlborough. The dying statesman turning to the duchess, who stood by his bedside, said to her, 'If you ever forsake that young man, and if 'souls are permitted to return from the grave 'to the earth, I will appear to you and re-'proach you for your conduct.'

"The dissolution of the parliament at length taking place, Walpole's incapacity was removed, and he was again chosen for Lynn. While the elections were depending, it was the opinion of Somers, and the Whig Lords, that to state to the people, in a strong and perspicuous manner, the proceedings of the late parliament, with a view to expose the measures of the ministry, and to guide the electors in the choice of the new representatives, would be highly advantageous to their party. As no one seemed better calculated for this office than Walpole, he undertook a pamphlet, at their desire, on the Thursday, and published it on the Tuesday following, under the title of, A Short History of the Parliament, with the motto: 'Venalis Populus, venalis Curia Patrum.'

"To this publication is prefixed, a dedication by Pulteney, then his coadjutor, composed in a strain of irony and humour peculiarly his own, and in which, though addressed to an anonymous peer, it was easy to perceive that the earl of Oxford was the object of allusion.

"The pamphlet tends to prove, that the proceedings of the parliament had been directly contrary to the honour and advantage of England. The author defends the measures of the late administration with great ability; and after refuting the censures passed on Marlborough and Townshend, instances his own case, and describes himself as sharing the honour of an impeachment with those illustrious men. His animadversions on the conduct of the parliament, were made with so much freedom and asperity, that it was not deemed prudent to entrust them to a common printer. Walpole himself, at a subsequent period, expresses the apprehensions of the danger he might have incurred, had the author been discovered. 'There 'is a noble lord in the other house, who can, 'if he pleases, inform gentlemen, that the au-'thor of that history was so apprehensive of 'the consequences of printing it, that the press 'was carried to his house, and the copies print-'ed there.'"*

A Speech made against Mr. Walpole.] In consequence of the Resolutions, (at p. 1068.) Mr. Walpole surrendered himself next morning prisoner to the Tower; and a Speech on that occasion, was a day or two after printed as follows:

"Sir, I see how late it is, and therefore will take up but little of your time in supporting the motion that is made you, which I think in justice to ourselves, and that trust the country has reposed in us, is yet necessary to make the proceedings of this day complete, and give that satisfaction to the nation, which, I am satisfied, is expected from us in this affair.

"Sir, we have been to-day, and are yet sitting in judgment upon no less a crime than notorious corruption in the executing an office of trust; which is certainly a practice not only the most vile and detestable in itself, but the most pernicious, and (except treason) the most destructive to every constitution or government, wherever it prevails. And as the crime itself is of the worst sort that can be in any government, so I cannot help observing to you, that, in the instance you have had to-day before you, there are some circumstances which make this the worst even of that sort of any that are yet upon your journals. In every other instance that I can find there, it is plain it was the profit that tempted and prevailed upon the party to commit the crime: but this gentleman, if we would believe his own, and his evidence's confession, has done it only to gratify the prodigality of his humour, and give an extraordinary bounty to a creature of his own. Or if we take it the other way (which I own is my belief) that the profit was to himself, it is still the most extraordinary case that appears there: for, in all other instances of fraud, what the nation lost the party got: but in this, for every hundred pounds of public money, which he was to get for making this contract, it has cost the nation, as it stands computed upon your report, very near a thousand. So that I leave the fact, which being of the worst sort (except

* "Walpole," says Swift, in his Four Last Years; "was a person much caressed by the opposers of the queen and ministry, having been first drawn into their party by his indifference to any principles, and afterwards kept steady by the loss of his place. His bold, forward countenance, altogether a stranger to that infirmity which makes men bashful, joined to a readiness of speaking in public, hath justly intitled him, among those of his faction, to be a sort of leader of the second form. The reader must excuse me for being so particular about one, who is otherwise altogether obscure."

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treason) that can be; and this instance, with being the worst of that sort (except what yet lies upon your table) that has ever yet appeared before this House.

"Sir, I am sorry to observe both from this instance that has been proved before you to-day, and from others that lie upon your table, besides what future discoveries we may reasonably expect from the industry and integrity, the constancy and courage of those gentlemen, you have so happily chose to be your Commissioners of Accounts; that this canker has not only taken very deep root among some, but I believe we shall find it hath spread itself almost through every part of the late administration; therefore, Sir, I hope your judgment in this case will be such, as all good judgment ought to be, wherein the punishing of the offender, whether it be more or less, is not so much to be regarded, as that it may be such, as may sufficiently deter others from daring to commit the like practices hereafter.

"Sir, you have already sent the person that you have found guilty of this foul crime to the Tower, and some gentlemen say (though I can hardly believe them) they think it punishment sufficient: I am so far from thinking that a punishment adequate to the crime, that I am afraid that all that is in the power of this House to do, will not be sufficient to put the inveterate and radicated mischief from amongst us; and as I said before, it is the remedying of the evil, not the punishment of the man, which we ought chiefly to regard.—For Sir, it is very plain from the many instances which you have upon your journals, that abundantly less crimes have been punished both by imprisonment, and what you are now moved for, expulsion; and yet the united force of these punishments (which I think is the most this House can do) have been so far from being able to remedy the evil, that it has increased upon us.—As to what you have already done, I own, Sir, I think confinement of any sort very grievous to a generous mind: but, Sir, there are confident tempers in the world, that instead of standing corrected, can glory in their punishments, be they of what sort they will. We all know an instance, where an Hymn has been made even to the Pillory itself, by the wretch that was just come out of it. I hope your member is not so low as that fellow; but give me leave to say, I expect to see such a parade made, and such a countenance shewed him in his prison, by some sort of persons, who would be glad, for their own sakes, to screen the foulness of the crime, as well as the person convicted of it, that I am afraid that part of your judgment will not sit so heavy upon him as it ought to do. Your worthy member sir Peter King says, he as much deserves to be hanged as these two punishments; I do not much differ from that worthy gentleman; for I think a man that is in posts of near five thousand pounds a year, and cannot be content with that, but must commit such practices as these are, deserves little less; but I am sensible how late it is, therefore, &c."

Message from the Queen relating to the 50 new Churches.] Mr. Secretary St. John delivered to the Commons the following Message from her majesty:

"ANNE *R.*

"Her majesty thinks fit to inform the House, that in pursuance of an Act, entitled, 'An Act 'for granting to her majesty several duties on 'coals, for building 50 new Churches in and about 'the cities of London and Westminster, and su-'burbs thereof, and other purposes therein men-'tioned,' she issued out her commission under the great seal of Great Britain, authorizing several persons to execute the powers therein mentioned; that her majesty finding, by the report of the commissioners, that they have not been able, within the time limited, fully to answer the purposes of the said commission, earnestly recommends to her parliament, that the time may be enlarged for effecting this work, and such farther powers may be given, as shall appear necessary to render her majesty's pious intentions more effectual."

A Bill ordered to be brought in thereupon.] Hereupon, a Bill was ordered to be brought in, 'For enlarging the time given to the Com-'missioners appointed by her majesty, pur-'suant to an Act,' entitled, 'An Act for grant-'ing to her majesty, several duties on coals, 'for building 50 new Churches in, and about 'the cities of London and Westminster, and 'suburbs thereof, and other purposes therein 'mentioned: and also for giving the said com-'missioners farther powers for better effecting 'the purposes in the said Act mentioned.'

PROCEEDINGS OF THE COMMONS AGAINST THE DUKE of MARLBOROUGH.] Jan. 24. The Commons, in a full House, proceeded to take into consideration the Report of the Commissioners of the Public Accounts, and that part of the said Report, relating to the duke of Marlborough,* (see p. 1049.) which was not perused the Thursday before, was now read, as were also the Minutes of Mr. Cardonnell's Deposition, about Allowances by the contractors for

* "Jan. 23. I dined again to-day with the Secretary; but could not dispatch some business I had with him, he has so much besides upon his hands at this juncture; and preparing against the great business to-morrow, which we are all top full of. The ministers' design is, that the duke of Marlborough shall be censured as gently as possible, provided his friends will not make head to defend him: but if they do, it may end in some severer votes. A gentleman who was just now with him, tells me he is much cast down, and fallen away: but he is positive, if he has but ten friends in the House, that they shall defend him to the utmost, and endeavour to prevent the least censure upon him; which I think cannot be, since the bribery is manifest: Sir Solomon Medina paid him 6,000*l.* a year to have the employment of providing bread for the army, and the duke owns it in his letter to the Commissioners of Accounts." Swift's Journal.

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Bread and Bread-waggons, taken and produced by the Commissioners of Accounts; and the translations of the Certificates of two persons beyond sea, the one of Jacob de Merchado, the other of Don Manuel Cardosa, relating to the said allowances. Upon the reading of those papers there arose a warm debate, that lasted from 3 in the afternoon, till near half an hour past 11 at night, and in which many speeches were made for and against his grace. Sir John Germain was also called in, and, being examined at the bar, said, in his grace's behalf, That the Allowances given to his grace by the Contractors for Bread and Bread-waggons, were customary perquisites of the commander in chief in Flanders; and as such formerly allowed to prince Waldeck, under whom sir John Germain had served.

Resolutions against his Grace.] But nevertheless it was resolved, by a majority of 265 to 155; 1. "That the taking several sums of money annually, by the duke of Marlborough, from the Contractors for furnishing the Bread and Bread-Waggons for the army in the Low-countries, was unwarrantable and illegal."

A motion being made, and the question put, That the House do adjourn, it passed in the negative; After which it was also resolved, by a great majority, "That the two and an half per cent. deducted from the foreign Troops in her majesty's pay, is public money, and ought to be accounted for." And, That the said Resolutions be laid before her majesty by the whole House*.

Accordingly, on the 26th, the House with their Speaker, laid the said Resolutions before the queen: who thereupon was pleased to make this Answer:

"I have a great regard for whatever is represented to me by my Commons; and will do my part to redress what you complain of."

"It is observable," says Tindal, "that though some of the foreign princes, who had troops in the queen's pay, did some time after order their ministers in London to represent, 'that the two and a half per cent. was their own 'money, but they were willing to allow it as a 'free gift to the duke of Ormond, as they had 'done to the duke of Marlborough;' which representation seemed to be a full justification of the latter. The Queen however was prevailed upon to send an order to the attorney-general to prosecute the duke for the 15,000*l.* which was deducted yearly out of the pay of the foreign troops, for the receiving whereof he had her own warrant. The court espoused these Resolutions of the Commons with great zeal, and paid well for the great majority by which they were carried. Upon this many virulent writers (whether set on to it, or officiously studying to merit by it, did not appear) threw out in many defamatory libels,* a great deal of malice against the duke of Marlborough: they compared him to Cataline, to Crassus, to Antony; and studied to represent him as a robber of the nation, and as a public enemy. This gave indignation to all who had a sense of gratitude, or a regard to justice.—Secret inquiries were made, in order to the laying more load on the duke of Marlborough, and to see whether posts in the army or in the guards, were sold by him; but nothing could be found. He had suffered a Practice to go on that had been begun in the late king's time, of letting officers sell their commissions; but he had never taken any part of the price to himself. Few thought that he had been so clear in that matter; for it was the only thing in which now his enemies were confident that some discoveries would have been made to his prejudice:

* "It was observed, as very commendable and becoming the dignity of such an assembly, that this debate was managed with great temper, and with few personal reflections upon the duke of Marlborough. They seemed only desirous to come at the truth, without which they could not answer the trust reposed in them by those whom they represented, and left the rest to her majesty's prudence. The Attorney-general was ordered to commence an action against the duke for the subtracted money, which would have amounted to a great sum, enough to ruin any private person, except himself. This process is still depending, although very moderately pursued, either by the queen's indulgence to one whom she had formerly so much trusted, or perhaps to be revived or slackened, according to the future demeanor of the defendant." Swift's Four Last Years.

* "Among the libels against the duke was published by either Prior or Swift, 'A fable of the Widow and her Cat,' the last stanza of which is as follows:

"So flagrant is thy insolence,
So vile thy breach of trust is,
That longer with thee to dispense,
Were want of power or want of sense:
Here, Towzer,—Do him justice."

"It is no wonder the duke of Marlborough was thus used, since the earl of Nottingham himself did not escape for opposing the negociations of peace. It was not only said, that he did so because he was refused the privy-seal, but the following advertisement was inserted in the Post-Boy, of December 6, viz. 'Whereas 'a very tall, thin, swarthy-complectioned man, 'between sixty and seventy years of age, wearing 'a brown coat, with little sleeves and long 'pockets, has lately withdrawn himself from his 'friends, being seduced by wicked persons to 'follow ill courses: these are to give notice, 'that whoever shall discover him shall have '10*s.* reward; or, if he will voluntarily return, 'he shall be kindly received by his friends, who 'will not reproach him for past follies, provided 'he give good assurances, that, for the future 'he will firmly adhere to the church of England 'in which he was so carefully educated by 'his honest parents.' There were also lampoons, and other libels, both in verse and prose, published against the same peer." Tindal.

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so that the endeavours used to search into those matters, producing nothing, raised the reputation of his incorrupt administration, more than all his well-wishers could have expected. In this whole transaction was seen a new scene of ingratitude, acted in a most imprudent manner; when the man, to whom the nation owed more than it had ever done, in any age, to any subject, or perhaps to any person whatever, was, for some months, pursued with so much malice. He bore all with silence and patience, appearing always calm and chearful; and though he prepared a full Vindication of himself, yet he delayed publishing it, till the nation should return to its senses and be capable of examining those matters in a more impartial manner." The following is a copy of the said Vindication:

THE DUKE OF MARLBOROUGH'S CASE AND VINDICATION OF HIMSELF.

The following Case was designed by the Duke of Marlborough to be presented to the Honourable House of Commons, in Vindication of himself from the Charge of the Commissioners of Accounts, in relation to the two and a half per cent. for Bread and Bread-waggons:

"When I first heard of the proceedings before the Commissioners for taking the Public Accounts, I was abroad, and in the queen's service; and though the account I gave you by letter, was not, in their opinions, so full, but they have thought themselves obliged, notwithstanding that, to lay the matter before you, I think myself however bound to own the justice they have been pleased to do me, in reporting that letter also, together with her majesty's letter.

"I am sensible the nature of the service to which the report relates, might occasion many mistakes, without any imputation to the gentlemen concerned in that commission, and I am sure that those gentlemen, every one of them, and every other gentleman here, will be glad to find himself convinced, that as I have, in some measure, deserved the good opinion of my countrymen on former occasions, so nothing will appear in this, which can draw upon me the blame of this House.

"The first Article in the Report is founded upon the deposition of sir Solomon de Medina, by which you are informed of a yearly sum paid by him and his predecessor, contractors for Bread and Bread-waggons, to myself. This payment, in my letter, I have called a perquisite of the general or commander in chief in the Low Countries; and it has been constantly applied to one of the most important parts of the service there, I mean the procuring intelligence, and other secret service.

"The commissioners are pleased to observe, that these sums cannot be esteemed legal perquisites, because they do not find them claimed or received by any other English general in the Low Countries. But I must take leave to affirm to this house, that this perquisite or payment has been allowed to the general or commander in chief, in the Low Countries, both before and ever since the Revolution, to enable him to carry on such secret services. The like allowance was made to prince Waldeck, whilst he was general of the Dutch army in Flanders; it was made during the last war as well as this; and for your further satisfaction in this matter, I am content to refer myself to sir Solomon de Medina, who cannot but own, that when he made this allowance, he knew it to be the constant practice during the former wars in the Low Countries, and particularly when prince Waldeck commanded there. And if it be a circumstance worth your notice, he must inform you also, that the allowance of waggons, which the Report takes notice of, is usual likewise; that he has allowed the like, or near the like number, to count Tilly, though he was not velt-marschal, and that there is a proportionable allowance of the same kind to other officers. The Report may have observed very rightly, that, by the strictest inquiry the commissioners could make, they cannot find that any English general ever received this perquisite. But I presume to say, the reason is, that there was never any other English general besides myself, who was commander in chief in the Low Countries. I crave leave then to say, that this observation in the Report, was occasioned through the want of due information in the usage of the army. In receiving this as an established and known perquisite, I have followed and kept up that usage which I found in the army, when I first entered upon that service; and upon this ground alone, I hope that this House will not think that I was unwarranted in taking it.

"But that no doubt may remain with you, I will state, as well as I can, what I have learnt, and during that time I have been in the service, has been always understood to be the ground, as well as the design of this allowance. The contracts of bread being of necessity at the same rates for the whole army, and it being for the security of the service, those contracts should be in the fewest hands, the certain gain upon so large a sum as a contract for the whole, or great part of the army, even at the lowest prices, makes this yearly allowance to have been thought not unreasonable from the contractor. This being an allowance generally arising from the contracts that concern a variety of troops, under the same general, must naturally fall under the direction, and come into the hands of the commander in chief, as an allowance to enable him to carry on such designs as could not be foreseen, but yet necessary to be put in execution, and which chiefly depend upon intelligence.

"I thought it more needful to give you this account of the nature and design of this allowance, because I observe from the Report, that the objection is to the justice and reasonableness of the perquisite itself, without having

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regard to the application or use for which it is intended.

"But the commissioners apprehend this not to be a justifiable perquisite, because they say, the public, or the troops, necessarily suffer in proportion to every such perquisite.—If these observations were well grounded, I should think them good reasons to put an end to the allowance, and at the same time to blame those who first introduced it: but I take upon me to affirm, that this neither is, nor can be the case. I have never heard a complaint, either of public or particular injury from this allowance; nor does the Report assign any particular wherein it may be judged to be so.

"This allowance to the general, can have no influence upon the contract itself, which is actually made and signed at the Treasury, and the price regulated by what the States have agreed to pay for the bread for their forces. I appeal to all the officers who have served with me in Flanders, whether the forces in her majesty's pay have not all along had as much, and as good bread as those of the States, and at the same prices; which every body will believe to be the lowest, that considers the frugal œconomy of the States, and the small pay of their troops? And therefore, I may safely conclude, that if the English have had their bread as cheap as the Dutch, they have had it as cheap as was possible. Nor indeed can it be imagined to be otherwise; for the very supposition of two different prices, paid by different troops in the same army, for the same quantity of bread, would occasion a mutiny.—But this whole affair has been so regulated, and there has been so little occasion for complaint, that it is well known our army in Flanders has been duly supplied with bread during the whole war, and has received it with an exactness that will be hardly thought consistent with the secrecy, and suddenness of some of the motions that have been made.

"The Report farther says, that the general is the sole check on the contractor; and he is to take care of the performance of the contract, and to judge of all deductions to be made from, and allowances to the contractor. And from these suggestions it infers, that, under these circumstances, it is a breach of trust in him to receive the perquisite.—This observation amounts to no more than suggesting a possibility of inconveniencies from an ancient usage in the army. And if by calling the general the sole check upon the contractor, is meant, that he is the person who is to receive complaints concerning the execution of the contract, (and so far only is true,) I affirm, that upon all complaints I have given full redress; either by ordering other bread, or the value in money, at the choice of the troops: For the truth of which, I appeal to the officers of the army. And as to the general being to judge of all deductions to be made from, and allowances to the contractor, I am entirely a stranger to any such deductions and allowances, of which the general is supposed to be the judge.

"One circumstance remains upon this article, which I barely touch upon, to remove a prejudice raised by the Report, from the caution and secrecy with which it is said the money has been received. This is supported only by an allegation, that my secretary Mr. Cardonnell, had declared upon oath, that he never heard or knew of any such perquisite, until lately; which it is supposed he ought to have done as auditor of the bread account. But I take leave to say, 1st, That he never was auditor of the bread account, nor has any thing to do with it. 2dly, Though it is said in the Report, that he declared upon oath, yet I cannot obtain or hear of any such deposition; nor is it possible he could declare so. In this part of the Report, there must have happened some mistake. For I presume Mr. Cardonnell, who is a member of this House, cannot but declare that he knows of this perquisite; though he might be ignorant of the same, till notice came to the camp of what sir Solomon de Medina had sworn.

"As to the 1 per cent. said to be allowed to Mr Sweet for prompt payment, I do aver that I knew nothing of it. And though sir Solomon de Medina has often complained to me of Mr. Sweet's payments not being regular, I do not remember he ever mentioned the 1 per cent.

"Now, as to the second Article in the Report, allow me to observe to you, that it has arisen only from the information I myself gave the commissioners by my letter to them: This matter having relation to that part of the service to which the sums in the former article have been applied; that the Commissioners might have a true state of it, I chose to insert a short Account of it in my letter to them. If I did this voluntarily, out of duty to the public, I hope I shall be thought to have given you information upon a certain belief, and I was altogether blameless in the part I have had in it. —It will be necessary that I trouble the House with an Account of the time and occasion whence this payment of $2\frac{1}{2}$ per cent. by the foreign troops, commenced.—During the last war, the allowances by parliament for the contingencies, of the army, of which that of secret service is the principal, was, 50,000*l.* per ann. But this allowance fell so far short of the expence on that head, that upon the prospect of this war's breaking out, the late king assured him, that this last part of the service never cost him less than 70,000*l* per ann. However, the allowance of parliament for the whole contingent service, during this war, has been but 10,000*l.* per annum, 3,000*l.* of which, or thereabouts, has generally gone for other contingencies, than that of intelligence. The late king, being unwilling to come to parliament for more money, on that head of the service, proposed this allowance from the foreign troops, as an expedient to assist that part of the service, and commanded me to make the proposition to them; which I did accordingly, and it was readily consented to. By this means a new fund of about 15,000*l.* per annum

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was provided for carrying on the secret service, without any expence to the public, or grievance to the troops from whom the allowance was made; for, when the public pays, those troops are not at all affected, or one farthing increased, in consideration of this deduction; nor is there in any conventions for them any weight laid upon it; the hire of foreign troops being governed by settled rules and treaties, and the conventions of the States for them, being in the same terms.

"This expedient being formed in the manner I have shewn, her majesty was pleased to approve it by her warrant, which being understood as a confirmation or an agreement with the foreign troops, not negociated by, and, by consequence, not within the care or business of the treasury, was counter-signed by the secretary of state whose province it belonged to, as the only proper officer.

"The true design of this deduction being to supply the secret service, gentlemen, I hope you will observe, that this, together with the sum on the former article of the allowance by parliament, when put together, doth fall short of the allowance given by parliament in the last war upon this head.

"I cannot suppose that I need to say how essential a part of the service this is, that no war can be conducted successfully, without early and good intelligence, and that such advices cannot be had but at a very great expence. Nobody can be ignorant of this, that knows any thing of secret correspondence, or considers the numbers of persons that must be employed in it, the great hazard they undergo, the variety of places in which the correspondence must be kept, and the constant necessity there is of supporting and feeding this service; not to mention some extraordinary expences of a higher nature, which ought only to be hinted at. And I affirm, that whatever sums have been received on this account, have been constantly employed in procuring intelligence, in keeping correspondence, and other secret service. If any gentleman should doubt this, and imagine that this expence could have been supported by the 10,000*l.* per annum, I desire them to consider, that the present war in Flanders, from the beginning of it, has been an offensive war; the campaigns early and long, the variety of actions have been very great, wherein so many battles have been fought, lines forced, and so many strong towns taken, with trenches opened; but yet, during the last war, which was of another kind, if regard be had only to what was allowed by the public, it is certain, that the charge on this head, in three campaigns of that war, came to at least as much as all the ten campaigns of this. And though the merit of our successes should be least of all attributed to the general, the many successful actions, such as have surpassed our own hopes, or the apprehensions of the enemy, in this present war in Flanders, to which our constant good intelligence has greatly contributed, must convince every gentleman, that such advices have been obtained, and consequently that this money has been rightly applied.

"Having given this full and faithful account of the rise and use of this deduction, it must, I flatter myself, appear to every body that hears me, to have been a real service, as well as saving of money to the public. And though honour is due to the memory of the late king, who formed this expedient, and to her majesty, who approved of it, by her warrant, I cannot, upon this ground, apprehend any imputation to myself, who have pursued this, so much to the advantage of my country.

"Before I take notice of the remarks made by the Commissioners upon this part of the letter, I make one general observation upon the nature of this deduction, which those gentlemen, throughout their Report, call public money, and to be accounted for in the same manner that other public money is usually accounted for. But the notion, I apprehend, is wholly misapplied, as will appear by shortly stating the fact itself. By the treaties with the foreign princes for the hire of their troops, the whole subsidies stipulated for, are due, and the receipt is by them given for the whole money, which is a sufficient voucher to discharge the pay-master in the Exchequer, and thereby the account, as to the public. This deduction so made, does not properly issue out of the Exchequer, but of the money of the foreign troops, for their proportion of the contingencies: and therefore I still apprehend, I speak properly when in my letter I affirm, that this two and a half per cent. does not belong to the public accounts. But as this deduction arises from the agreement set on foot by his late majesty, and confirmed by her majesty, as it comes in here as a proportion of the expence, which ought to fall upon the foreign troops, and being applied to a part of the public service, gentlemen may, if they think fit, in this sense, call it public money, to be accounted for, in such a manner as the nature of the sense admits, and as the public allowance to the same service is accounted for.

"Having thus explained this matter to you, I beg the patience of the House to go on, and consider the particular remarks that have been made upon it.

"First, It has been objected that her majesty's warrant has been kept dormant for nine years, and the deduction concealed from the knowledge of the parliament; but surely the warrant cannot be said to have been kept dormant, that has been lodged in the hands of the pay-master general's deputy in Holland, which was delivered to me out of the office of the secretary of state, signed by her majesty, and counter-signed by him as all warrants are, and which could not possibly be concealed from the commanders of so many foreign troops, nor indeed from the troops themselves, which consist of so many thousand men, without whose knowledge the deduction could not have been made; and who, if it had been

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in the least uneasy to them, would no doubt have complained. In what sense can this be called a dormant warrant, which, from the time it was signed, had been in the hands of the proper officer, and constantly and publicly put in execution? The Report adds, that the deduction has been concealed from the parliament: for which it is said, I have not assigned sufficient reasons; but as there has been no concealment, there could be no need of assigning reasons for it; much less was it necessary to lay accounts of the money before the parliament, it being no part of the estimate for the service, nor of any influence on the money to be given by parliament: For the subsidies to the foreign troops are governed by previous treaties, and therefore must have continued the same though this deduction had never been made: Besides, that the Exchequer is discharged of this money, on the receipt from the foreign troops for the complete subsidy. I have said in my letter, that this being a free gift of the foreign troops does not properly relate to the public accounts; Upon which the Commissioners observe, that this is inconsistent not only with the words of the warrant which supposes an agreement, but with that part of my letter which takes notice of this stoppage, to be stipulated for by me as ambassador; and from thence the Report concludes, that this money is to be accounted for, as other public money is: But this observation I take to be grounded upon the mistaken notion of public money, which, as has been already observed, being meant of money granted by parliament, and standing in charge in the Exchequer, can never be applied to this payment; which is a contribution by the foreign troops, out of their own money, and not out of the money of Great Britain. I might say that though this deduction has been submitted to by the foreign troops during this war, yet it is so far voluntary at this day, that it depends barely upon a parole stipulation, and when umbrage shall be given, may, at any time, be receded from by them. This Report further objects, that the 10,000*l.* given for Contingencies, is not confined to the British troops, but was intended for the 40,000 men, without distinction. Now the contrary to this is evident; for, in the estimate laid yearly before this House, it is plain that this is given for the British troops only, and not for the rest of the 40,000 men; and in the estimate for the foreign troops, the article of Contingencies is omitted, for no other reason, but because by this warrant it was otherwise provided for; and therefore the words of the warrant are for defraying contingent expences relating to them, which is plainly said in opposition to the contingent money allowed for her majesty's own troops; and the like contingent money has not only been allowed upon all other parts of the service, but it will appear, by examining what has been so allowed, that the sums have exceeded in proportion what has been ever allowed for the army in Flanders: But the Report adds, that the 10,000*l.* has not been always thought exempt from account, as appears from a privy seal bearing date in March, 1706, wherein there is a clause releasing me from a sum, part of the 10,000*l.* which the Report said, supposes it had otherwise been to be accounted for. When I say in my letter, that the 10,000*l.* given by parliament, is without account: I dare say, I cannot easily be misunderstood: The nature of the thing not admitting of a particular account, and the constant practice never requiring any. In all the accounts during the war, of that money, my receipt has been a sufficient discharge; but that not being a regular voucher for the paymaster, it has been thought necessary from time to time to grant a privy seal, to enable the paymaster to pass that part of his account; and though there be that clause inserted in the privy seal, mentioned in the report, of which, I affirm, I was unacquainted, I yet presume to say, that it was not only needless, but also contrary to all practice, both before and since; for the truth of which, I appeal to the paymaster-general, who will do me justice in it, if any gentleman can doubt it.

"As to the legality of the Warrant, which is the next objection, the Commissioners having barely touched on this, as not duly countersigned, I think it sufficient to say, that this Warrant, being principally intended for confirming an agreement with the foreign princes, was properly countersigned by the Secretary of State for that province, rather than by the lord treasurer, who could have nothing to do with it; however, I must believe, that an error of this kind, if any body should think it so, which depends upon a nicety, cannot be thought to affect the general, whose part has only been to apply the money as the warrant directs.

"But it is further remarked, that neither the stoppage nor payment of this money have been regularly made. First, not the stoppage, because the warrant directs it should be stopped in the hands of the pay-master, or his deputy. But this method does not appear, by the paymaster's account, to have been pursued; but on the contrary, it is said, that the payments to the foreign troops are always complete, and the receipt taken in full, without any notice of the deduction. But yet I presume to say, the stoppage has been regularly made, in pursuance to the warrant: The deputy pay-master is expressly authorised by the warrant, to make that stoppage; and it is of necessity he should make it, who resides abroad, where the matter must be transacted, and the stoppage applied. And it may not be amiss to observe, that the cases where deductions are intended to be accounted for, as public money, the warrant, which authorises such deductions, directs the same to be accounted for, and the manner in which it is to be done: But where deductions are made by virtue of warrants that contain no such directions in them, as in the present instance, it hath been presumed, that there was no intention such deductions should be accounted for to the public.

"Next, as to the payment, this is said to be

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according to the warrant, because neither Mr. Brydges, nor Mr. Cardonnel, ever saw any warrant from me, directing the payment of it. I am not surprised, if the gentlemen, in this circumstance especially, might not be apprized of the method of issuing money for secret service, which could be only in my own knowledge. But for their information, and the satisfaction of the House, I take the liberty to acquaint you, that the method of issuing this, and the public allowance of 10,000*l.* for secret service, hath been exactly the same, and in this manner.

"I send my letters to the deputy pay-master, requiring the payment of the sum I have occasion for, to myself; and for such sums as are received from time to time, giving my receipt. This is the order of the general, which is meant by her majesty's warrant; and which alone is practicable in this as well as in the instance of the 10 000*l.* contingent money. Nor is there any gentleman that considers the nature of secret service, but must see it is not possible, by the general's warrant, to direct the payment to the person, for whose use it is received.

"But the Commissioners are of opinion, that the deputy pay-master ought to have transmitted constant accounts of this deduction, to the pay-master general. If I could expect the House could expect from me an account of a circumstance, for which the deputy pay-master alone is answerable, I should take the liberty to say, that in my opinion, if he has not transmitted such accounts, it must be, because he is neither required nor authorised, by her majesty's warrant, to do so. He is only obliged to make the stoppage, and issue the money upon my orders, which he has done. Nor can I conceive it to be of any use to the public, or the pay-master general, to have received such accounts; he not being chargeable with any such stoppage; nor are the receipts for it any part of his vouchers.

"The last objection is, that the deduction being made for defraying Contingent Expences to the foreign troops; if the whole has been employed in secret correspondence, such a disposition, not being authorised by the warrant, is a mis-application of public money. But though it is said in the warrant, to be for defraying Contingent Expences relating to the troops, the reason it is so expressed, I take to be nothing else, but that in the establishment for the forces serving abroad, the word 'Contingencies' hath always comprehended secret service, that having always been what was principally meant by that article. And this is so evident, that if secret service be not included under the word 'Contingencies,' that important part of the service would have no allowance from the public for it, which I presume will not be thought expedient. And therefore, though the deduction be declared to be for contingencies, no stress can in justice be laid upon that word, to prove it was not designed for secret service. And indeed, this is confessed immediately after, in the Report itself; which says, that the article for Secret Service was always included in the 10,000*l.* given for Contingencies. But if Secret Service be meant by, or included under Contingencies, in the establishments for the British troops, how can it be supposed, that the word 'Contingencies' in the warrant for the foreign troops, is not to be understood in the same manner?

"No body can doubt, but contingencies, or contingent expences mean the same in both; and therefore secret service must be included in both, or neither: But I cannot better explain this whole matter, than by supposing, that secret service being an affair that affects the whole army, the charge of it is to be laid in proportion upon the whole. But the share of the British troops is borne by the public, while the share of the foreigners is raised upon the troops themselves by the deduction, which is therefore said to be for defraying such contingent expences as relate to them; that is, for their share of the expence of secret service, which being principally, and in the first place meant by contingencies, there is no opposition between the ends directed by the warrant, and those that the money has been applied to, and consequently there has been no misapplication of it: I have nothing to add upon this Article, but to take notice of a great mistake, even in the second computation which is made in the report relating to this deduction, for it is said, that the whole stoppages from the troops in Flanders have amounted to the sum of 177,959*l.* 17*s.* 0¾*d.*, when, in truth, computing them from May, 1702, the time they were first made, they do not exceed 151,748*l.* taking the exchange at a medium between eleven guilders, and ten guilders, ten stivers: So that this deduction, for the ten years, comes to no more than 15,174*l.* 16*s.* a year.

"Upon the whole matter, I cannot but hope this House will find reason to be satisfied with this part of my conduct; and I think it no ill service, that so necessary and important a part of the war, and which has turned to so good an account, has been managed with so little expence to the public: and I may, with the greatest certainty, assure them, that all other parts of the service have been carried on with all the good husbandry that was possible. And, I believe, I may venture to affirm, that I have, in the article for Secret Services, saved the government near four times the sum this deduction amounts to. Which I must reckon so much money saved to the public."

The Barrier-Treaty laid before the Commons.] Jan. 29. Mr. Secretary St. John presented to the House a copy of the Treaty between her majesty and the States-General, for securing the Succession to the crown of Great Britain, and for settling the Barrier for the States-General against France, concluded at the Hague, the 29th of October 1709, &c.

Bill to repeal the Naturalization-Act, agreed to.] Feb. 1. The Lords sent back to the Commons the Bill for repealing the 'Act for na-

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turalizing foreign Protestants,' with some amendments to which the Commons agreed.*

* "On the 9th of February was repealed the Act for naturalizing foreign Protestants, which had been under the last ministry, and, as many people thought, to very ill purposes. By this act any foreigner, who would take the oaths to the government, and profess himself a Protestant, of whatever denomination, was immediately naturalized, and had all the privileges of an English-born subject, at the expence of a shilling. Most Protestants abroad differ from us in the points of church-government; so that all the acquisitions by this act would increase the number of dissenters; and therefore the proposal, that such foreigners should be obliged to conform to the established worship was rejected. But because several persons were fond of this project, as a thing that would be of mighty advantage to the kingdom, I shall say a few words upon it. The maxim, 'That people are the riches of a nation,' hath been crudely understood by many writers and reasoners upon that subject. There are several ways by which people are brought into a country. Sometimes a nation is invaded and subdued; and the conquerors seize the lands, and make the natives their under-tenants or servants. Colonies have been always planted where the natives were driven out or destroyed, or the land uncultivated and waste. In those countries where the lord of the soil is master of the labour and liberty of his tenants, or of slaves bought by his money, men's riches are reckoned by the number of their vassals. And sometimes, in governments newly instituted, where there are not people to till the ground, many laws have been made to encourage and allure numbers from the neighbouring countries. And, in all these cases, the few comers have either lands allotted them, or are slaves to the proprietors. But to invite helpless families, by thousands, into a kingdom inhabited like ours without lands to give them, and where the laws will not allow that they should be part of the property as servants, is a wrong application of the maxim, and the same thing, in great, as infants dropped at the doors, which are only a burthen and charge to the parish. The true way of multiplying mankind to public advantage, in such a country as England, is to invite from abroad only able handicraftsmen and artificers, or such who bring over a sufficient share of property to secure them from want; to enact and enforce sumptuary laws against luxury and all excesses in cloathing, furniture, and the like; to encourage matrimony, and reward, as the Romans did, those who have a certain number of children. Whether bringing over the Palatines were a mere consequence of this law for a general naturalization; or whether as many surmised, it had some other meaning, it appeared manifestly, by the issue, that the public was a loser by every individual among them; and that a kingdom can no more be the richer by such an importation, than a man can be fatter by a wen, which is unsightly and troublesome, at best, and intercepts that nourishment, which would otherwise diffuse itself through the whole body." Swift's Four Last Years.

Resolution of the Commons about the State of the War.] Feb. 4. The Commons, in a Committee of the whole House, took into consideration the State of the War, and having examined the Treaties presented to them, after a long debate, came to the following Resolutions:

"1. That the States General have been deficient in their quotas for sea-service, in proportion to the number of ships provided by her majesty, some years two thirds, and generally more than half their quota. 2. That towards the carrying on the War in Spain, in order to reduce that monarchy to the House of Austria, neither the late emperors, nor his present imperial majesty, have ever had any forces on their own account there, till the last year, and then only a regiment of foot, consisting of 2,000 men. 3. That the forces supplied and paid by her majesty for the carrying on the War in Spain, from 1705 to 1711, inclusive, amounted to 57,973 men, besides 13 battalions and 18 squadrons, for which her majesty has paid a subsidy to the emperor. 4. That the forces supplied by the States General for the service of Spain, from 1705 to 1708, both inclusive, have amounted to no more than 12,200 men, and that from the year 1708 to this present time they have sent thither no forces at all. 5. That her majesty has not only furnished her proportion of 12,000 men, according to the Treaty entered into for the service of the war in Portugal, but has taken upon her the emperor's proportion, by furnishing two thirds, when the States General only furnished one third for that service. 6. That by the Treaty with the king of Portugal, there was to be furnished 12,000 foot, and 3,000 horse, at his own expence; and, in consideration of a subsidy to be paid him, 11,000 foot and 2,000 horse more; notwithstanding which, it appears, that the king of Portugal did not furnish 13,000 men in the whole. 7. That since the year 1706, when the English and Dutch marched into Castile, and returned no more into Portugal, her majesty has replaced more than her share, according to her proportion, and the States General have not had any troops in Portugal. 8. That the first proportion of three fifths to two fifths, agreed upon between his late majesty king William and the States General, for the service of the war in Flanders, has not been observed by the States General. 9. That the States General, during the course of the war, have furnished less than their proportion in Flanders, 20,837 men. 10. That the condition for prohibiting all Trade and Correspondence between Holland and France, on which the troops of augmentation were granted in 1703, and afterwards continued, has not been observed by the States General. 11. That, at the beginning of this war, the Subsidies were paid in equal pro-

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portions by her majesty and the States General, but her majesty has since paid more than her proportion, 3,155,000 crowns."

These Resolutions were next day reported by Mr. Conyers, and agreed to by the House.

Bill to limit the Number of Officers in the House of Commons.] Feb. 8. The Commons ordered a Bill to be brought in "for securing the Freedom of Parliaments, by limiting the number of Officers sitting in the House of Commons;" and Mr. Shackerly, Mr. Heysham, and Mr. Onslow, were named to prepare and bring in the same.

Feb. 9. Mr. Wortley presented the said Bill, which was read the first time, ordered a second reading, passed, and shortly after sent up to the Lords.*

Address for the Instructions, &c. about the Barrier Treaty.] Feb. 11. The Commons resolved to address the queen that all Instructions and Orders given to the plenipotentiaries, that transacted the Barrier-Treaty, and also all Treaties mentioned and referred to in the said Treaty, might be laid before the House, except such Treaties as were already before the House: Which Address, being presented by Mr. Secretary St. John, was readily complied with.

The Commons vote to stand by the Queen; and to consider of the Licentiousness of the Press.] Feb. 12. The Commons came to an unanimous Resolution, "That this House will effectually stand by, and support her majesty in all things recommended to them in her majesty's most gracious Speech from the throne; as also, that they would upon that day se'nnight, in a committee of the whole House, consider of that part of her majesty's Message to the House the 17th of January last relating to the great licence taken in publishing false and scandalous Libels:" But the consideration of this matter was afterwards put off from time to time.

Resolutions against the Barrier-Treaty—The Lord Viscount Townshend voted an Enemy to his Country.] The Commons being by this time furnished with all the papers relating to the Barrier-Treaty, took the same into consideration in a full committee of the whole House, and came to the following Resolutions: *

* "The Commons sent up a Bill for securing the freedom of parliaments, by limiting the number of members in that House who should be allowed to possess employments under the crown. Bills to the same effect, promoted by both parties, had, after making the like progress, been rejected in former parliaments; the court and ministry, who will ever be against such a law, having usually a greater influence in the House of Lords, and so it happened now. Although that influence were less, I am apt to think that such a law would be too thorough a reformation in one point, while we have so many corruptions in the rest; and perhaps the regulations, already made on that article, are sufficient, by which several employments incapacitate a man from being chosen a member, and all of them bring it to a new election. For my own part, when I consider the temper of particular persons, and by what maxims they have acted (almost without exception) in their private capacities, I cannot conceive how such a bill should obtain a majority, unless every man expected to be one of the fifty, which, I think, was the limitation intended." Swift's Four Last Years.

* "The House seemed to have nothing more at heart than a strict inquiry into the state of the nation, with respect to foreign alliances. Some discourses had been published in print, about the beginning of the session, boldly complaining of certain articles in the Barrier-Treaty, concluded about three years since by the lord viscount Townsend, between Great-Britain and the States General; and shewing in many particulars, the unequal conduct of these powers in our alliance, in furnishing their quotas and supplies. It was asserted by the same writers, 'That these hardships put upon England, had been countenanced and encouraged by a party here at home in order to preserve their power, which could be no otherwise maintained than by continuing the war, as well as by her majesty's General abroad, upon account of his own peculiar interest and grandeur.' These loud accusations spreading themselves throughout the kingdom, delivered in facts directly charged, and thought, whether true or not, to be but weakly confuted, had sufficiently prepared the minds of the people; and, by putting arguments into every body's mouth, had filled the town and country with controversies, both in writing and discourse. The point appeared to be of great consequence, whether the war continued or not: for in the former case, it was necessary that the allies should be brought to a more equal regulation; and, that the States in particular, for whom her majesty had done such great things, should explain and correct those articles in the Barrier-Treaty which were prejudical to Britain; and, in either case, it was fit the people should have at least the satisfaction of knowing by whose counsels, and for what designs, they had been so hardly treated.—In order to this great inquiry, the Barrier-Treaty, with all other treaties and agreements entered into between her majesty and her allies, during the present war, for the raising and augmenting the proportions for the service thereof, were, by the queen's directions, laid before the House.—Several Resolutions were drawn up and reported at different times, upon the deficiencies of the allies in furnishing their quotas, upon certain Articles in the Barrier-Treaty, and upon the state of the war; by all which it appeared, that whatever had been charged by public discourses in print against the late ministry and the conduct of the allies, was much less than the truth. Upon these Resolutions (by one of which the lord viscount Townsend who negotiated and signed the Barrier-Treaty, was de-

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"1. That in the Treaty between her majesty and the States-General, for securing the Succession to the crown of Great-Britain, and for settling a Barrier for the States General against France, under colour of securing the Protestant succession, and providing a sufficient Barrier to the States General against France, there are several Articles destructive to the trade and interest of Great-Britain, and therefore highly dishonourable to her majesty. 2. That it appears that the lord viscount Townsend had not any orders or authority for negociating or concluding several Articles in the said Treaty. 3. That the lord viscount Townsend, who negociated and signed, and all those who advised the ratifying of the said Treaty, are enemies to the queen and kingdom:" which Resolutions were in the 16th agreed to by the House.

Resolutions on the State of the War in Spain.] Feb. 18. A Committee of the whole House took into consideration the State of the War, and resolved, "1. That it hath appeared to this committee, that the charge for Transport-Service, in carrying on the war in Spain and Portugal, from the year 1711, inclusive, amounted to 1,336,719*l.* 19*s.* 11*d.*—2. That there has been paid by her majesty, for contingencies, Bread, and Bread-Waggons, Forage, and all other extraordinaries, both for the English and Foreign troops in Savoy, Piedmont, Italy, Spain, Portugal and Flanders, since the 24th of June 1705, so far as the same hath been returned from abroad, several sums, amounting, in the whole, to 3,487,000*l.* 2*s.* 11*d.*—3. That the charge of Victualling the Land-forces for the service of the war has amounted to 583,770*l.* 8*s.* 6*d.*—4. That the charge of her majesty's ships and vessels, employed in the service of the war in Spain and Portugal, reckoned after the rate of 4*l.* a man per month, from the time they sailed from hence till they returned, were lost, or put upon other services, amounted to 6,540,966*l.* 14*s.*—5. That an humble Representation be made to her majesty, upon the Resolutions of this House, relating to the State of the War, and the Treaty between her majesty and the States-General, for securing the Succession to the crown of Great Britain, and for settling a Barrier for the States-General against France; and also humbly to desire her majesty, that she will be pleased to order her ministers to insist with the Emperor, that the Revenues of all the territories and places restored or added to the House of Austria, during this war, (over and above what is necessary for their defence) may be applied for the carrying on the war in Spain; and to assure her majesty, that this House will enable her majesty to bear her share of any farther expence, that shall be wanted by sea and land, in proportion to what the emperor, and the other allies shall actually furnish for those services; and that as to other parts of the war, to which her majesty is obliged by particular treaties to contribute, that her majesty will, for the future, only furnish troops and pay subsidies, in proportion to what her allies shall actually furnish and pay."

These Resolutions were reported on the 18th and agreed to by the House; and a committee was appointed to draw up the said Representation according to the said Resolutions, and upon the Debate of the House, another Committee was appointed to consider of the Abuses committed in Musters and Cloathing of the Army; and also the Abuses relating to the Hospitals abroad.

Resolutions against Mr. Cardonnel.] Feb. 19. Mr. Campion, from the Commissioners of the Public Accounts, acquainted the House, that they had taken several Depositions and other Papers relating to the matters in their Report, which he presented to the House. Then the order of the next day was read, for taking into farther consideration the said Report: and the said Depositions and Papers were also read: and those parts of the said Report which related to Mr. Cardonnel,* and sir David Dalrymple therein named, were read; and Mr. Cardonnel was heard in his place; and then he withdrew. After a long debate it was resolved by a majority of 125 voices against 99. "1. That the taking a Gratuity of 500 gold ducats, annually, from the Contractors for Bread and Bread-waggons for the army in the Low Countries, by Adam Cardonnel, esq. (Secretary to the General there) a member of this House, was unwarrantable and corrupt. 2. That the said Adam Cardonnel, esq. be, for the said offence, expelled this House."

Sir David Dalrymple was heard in his place, and then that part of the said Report was read, which related to Mr. Sweet, deputy pay-master at Amsterdam, after which it was resolved, "That the one per cent. received by Mr. Sweet, deputy-pay-master at Amsterdam, upon the payments made by him to the Contractors for furnishing Bread and Bread Waggons, in the Low Countries, is public money, and ought to be accounted for," and ordered, That the said Report of the Commissioners of Accounts, together with the Examinations and Depositions relating thereunto, with the Resolutions of this House thereupon, and her majesty's gracious Answer to the Resolutions laid before her, be printed.

The Queen's Message to the Commons concerning Prince Eugene's Proposition.] Feb.

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clared an enemy to the queen and kingdom,) and upon some farther directions to the committee, a Representation was formed; and soon after the Commons in a body presented it to the queen, the endeavours of the adverse party not prevailing to have it recommitted." Swift's Four Last Years.

* "Mr. Cardonnel, a member of parliament, and Secretary to the General in Flanders, was expelled the House, for the offence of receiving yearly bribes from those who had contracted to furnish bread for the army; and met with no further punishment for a practice, voted to be unwarrantable and corrupt." Swift's Four Last Years.

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26. Mr. Secretary St. John acquainted the House, That he had received her majesty's command, to communicate to that House a Proposition made to her majesty by prince Eugene of Savoy, in the name of the emperor, for the support of the War in Spain; viz.

"His imperial majesty judges, that 40,000 men will be sufficient for this service, and that the whole expence of the war in Spain may amount to 4 millions of crowns, towards which his imperial majesty offers to make up the troops which he has in that country to 30,000 men, and to take one million of crowns upon himself."

Representation of the Commons to the Queen on the War in Spain, the Barrier-Treaty, and the State of the Nation.] March 1. Sir T. Hanmer* reported from the Committee, to whom it was referred to draw up a Representation to be made to her majesty, That they had drawn up the same accordingly, which they had directed him to report to the House: and he read the same in his place, and afterwards delivered it in at the table, where it was read. And a motion being made, and the question put, That the said Representation be recommitted; it passed in the negative: after which it was resolved, That the said Representation be presented to her majesty by the whole House; which was done accordingly on Tuesday the 4th; being as follows:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great-Britain in parliament assembled, having nothing so much at heart, as to enable your majesty to bring this long and expensive war to an honourable and happy conclusion; have taken it into our most serious consideration, how the necessary Supplies to be provided by us, may be best applied, and how the common-cause may in the most effectual manner be carried on by the united force of the whole Confederacy; We have thought ourselves obliged, in duty to your majesty, and in discharge of the trust reposed in us, to enquire into the true state of the war in all its parts; we have examined what stipulations have been entered into between your majesty and your allies, and how far such engagements have on each side been made good; we have considered the different interests which the confederates have in the success of this war, and the different shares they have contributed to its support; we have, with our utmost care and diligence, endeavoured to discover the nature, extent and charge of it, to the end, that, by comparing the weight thereof with our strength, we might adapt the one to the other in such measure, as neither to continue your majesty's subjects under a heavier burden than in reason and justice they ought to bear, nor deceive your majesty, your allies, and ourselves, by undertaking more than the nation, in its present circumstances, is able to perform.

"Your majesty has been graciously pleased, upon our humble applications, to order such materials to be laid before us, as have furnished us with the necessary information upon the particulars we have enquired into; and when we shall have laid before your majesty our observations and humble advice upon this subject, we promise to ourselves this happy fruit from it, That, if your majesty's generous and good purposes for the procuring a safe and lasting peace should, through the obstinacy of the enemy, or by any other means, be unhappily defeated, a true knowledge and understanding of the past conduct of the war, will be the best foundation for a more frugal and equal management of it for the time to come.

"In order to take the more perfect view of what we proposed, and that we might be able to set the whole before your majesty in a true light, we have thought it necessary to go back to the beginning of the war, and beg leave to observe the motives and reasons upon which his late majesty king William engaged first in it. The Treaty of the Grand Alliance explains those reasons to be, for the supporting the pretensions of his imperial majesty, then actually engaged in a war with the French king, who had usurped the entire Spanish-Monarchy for his grandson the duke of Anjou; and for the assisting the States-General, who, by the loss of their Barrier against France, were then in the same or a more dangerous condition, than if they were actually invaded. As these were the just and necessary motives for undertaking this war, so the ends proposed to be obtained by it were equally wise and honourable: for, as they are set forth in the eighth article of the same Treaty, they appear to have been, the procuring an equitable and reasonable satisfaction to his imperial majesty, and sufficient

*"Feb. 20. Sir Thomas Hanmer is chairman of the Committee for drawing up a Representation of the State of the Nation, to the queen; where all the wrong steps of the allies and late ministry about the war, will be mentioned. The Secretary, I suppose, was helping him about it to-day. I believe it will be a pepperer. —Feb. 21. I was engaged at seven to go to sir Thomas Hanmer, who desired I would see him at that hour. His business was, that I would help him to draw up the Representation, which I consented to do; but I do not know whether I shall succeed, because it is a little out of my way.—Feb. 22. I was with Hanmer this morning, and there was the Secretary and Chancellor of the Exchequer very busy with him, laying their heads together about the 'Representation.'—March 5. The 'Representation' is printed. I have not seen it yet; it is plaguy severe they say." Swift's Journal.

"This Representation (supposed to be the work of sir Thomas Hanmer's pen) is written with much energy and spirit, and will be a very useful and authentic record, for the assistance of those who, at any time, shall undertake to write the history of the present times." Swift's Four Last Years.

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securities for the dominions, provinces, navigation and commerce of the king of Great-Britain and the States-General; the making effectual provision, that the two kingdoms of France and Spain should never be united under the same government, and particularly, that the French should never get into the possession of the Spanish West-Indies, or be permitted to sail thither upon the account of traffic, under any pretence whatsoever; and lastly, the securing to the subjects of the king of Great-Britain and the States-General, all the same privileges and rights of commerce throughout the whole dominions of Spain, as they enjoyed before the death of Charles 2, king of Spain, by virtue of any Treaty, agreement, custom, or any other way whatsoever. For the obtaining these ends, the three confederated powers engaged to assist one another with their whole force, according to such proportions as should be specified in a particular Convention afterwards to be made for that purpose. We do not find that any such Convention was ever ratified; but it appears, that there was an Agreement concluded, which, by common consent, was understood to be binding upon each party respectively, and according to which the proportions of Great Britain were from the beginning regulated and founded: The terms of that Agreement were, that for the service at land, his imperial majesty should furnish 90,000 men, the king of Great-Britain 40,000, and the States-General 102,000, of which there were 42,000 intended to supply their garrisons, and 60,000 to act against the common-enemy in the field: and with regard to the operations of the war at sea, they were agreed to be performed jointly by Great Britain and the States-General; the quota of ships to be furnished for that service, being five eighths on the part of Great-Britain, and three eighths on the part of the States-General.

"Upon this foot the war began in 1702, at which time the whole yearly expence of it to England, amounted to 3,706,494*l.*; a very great charge, as it was then thought by your majesty's subjects, after the short interval of ease they had enjoyed from the burden of the former war; but yet a very moderate proportion, in comparison with the load which hath since been laid upon them; for it appears, by estimates given in to your Commons, that the sums necessary to carry on the service for this present year, amount to more than 6,960,000*l.* besides interest for the public debt and the deficiencies accruing the last year; which two articles require 1,143,000*l.* more: So that the whole demands upon your Commons, are arisen to more than 8 millions for the present annual supply. We know your majesty's tender regard for the welfare of your people, will make it uneasy to you, to hear of so great a pressure as this upon them; and as we are assured it will fully convince your majesty of the necessity of our present enquiry, so we beg leave to represent to you from what causes, and by what steps this immense charge appears to have grown upon us.

"The service at sea, as it hath been very large and extensive in itself, so it hath been carried on through the whole course of the war, in a manner highly disadvantageous to your majesty and your kingdom; for the necessity of affairs requiring, the great fleets should be fitted out every year, as well for the maintaining a superiority in the Mediterranean, as for opposing any force, which the enemy might prepare, either at Dunkirk or in the ports of West-France, your majesty's example and readiness in fitting out your proportion of ships for all parts of that service, have been so far from prevailing with the States-General to keep pace with you, that they have been deficient every year to a greater degree in proportion to what your majesty hath furnished, sometimes no less than two-thirds, and generally more than half of their quota. From hence your majesty has been obliged, for the preventing disappointments in the most pressing service, to supply those deficiencies by additional reinforcements of your own ships; nor hath the increase of such a charge been the only ill consequence that attended it, for by this means the Debt of the Navy hath inhanced, so that the discounts arising upon the credit of it, have affected all other parts of the service; from the same cause, your majesty's ships of war have been forced in greater numbers to continue in remote seas, and at unseasonable times of the year, to the great damage and decay of the British Navy. This also hath been the occasion, that your majesty hath been streightened in your convoys for trade; your coasts have been exposed for want of a sufficient number of cruizers to guard them, and you have been disabled from annoying the enemy in their most beneficial commerce with the West-Indies, from whence they received those supplies of treasure, without which they could not have supported the expences of this war.

"That part of the war, which hath been carried on in Flanders, was at first immediately necessary to the security of the States-General, and hath since brought them great acquisitions both of revenue and dominion. Yet, even there, the original proportions have been departed from, and, during the course of the war, have been sinking, by degrees, on the part of Holland; so that, in this last year, we find the number in which they fell short of their three fifths, to your majesty's two fifths, have been 20,837 men: we are not unmindful, that, in the year 1703, a Treaty was made between the two nations, for a joint augmentation of 20,000 men, wherein the proportions were varied, and England consented to take half upon itself: but it having been annexed, as an express condition to the grant of the said augmentation in parliament, that the States-General should prohibit all trade and commerce with France; and that condition having not been performed by them, the Commons think it reasonable, that the first rule of three to two ought to have taken place again, as well in that as in other

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subsequent augmentations: more especially when they consider, that the revenues of those rich provinces which have been conquered, would, if they were duly applied, maintain a great number of additional forces against the common enemy, notwithstanding which, the States-General have raised none upon that account, but make use of those fresh supplies of money, only to ease themselves in the charge of their first established quota.

"As, in the progress of the war in Flanders, a disproportion was soon created, to the prejudice of England; so the very beginning of the war in Portugal brought an unequal share of burden upon us. For although the emperor and the States-General were equally partners with your majesty in the treaty with the king of Portugal, yet the emperor neither furnishing his third part of the troops and subsidies stipulated for, nor the Dutch consenting to take an equal share of his imperial majesty's defect upon themselves, your majesty hath been obliged to furnish two thirds of the entire expence created by that service: nor has the inequality stopped there, for ever since the year 1706, when the English and Dutch forces marched out of Portugal into Castile, the States-General have entirely abandoned the war in Portugal, and left your majesty to prosecute it singly at your own charge, which you have accordingly done, by replacing a greater number of troops there, than even at first you took upon you to provide. At the same time, your majesty's generous endeavours for the support and defence of the king of Portugal, have been but ill seconded by that prince himself; for notwithstanding that, by his treaty, he has obliged himself to furnish 12,000 foot, and 3,000 horse, upon his own account, besides 11,000 foot and 2,000 horse more, in consideration of a subsidy paid to him; yet, according to the best information your Commons can procure, it appears, that he hath scarce at any time furnished 13,000 men in the whole.

"In Spain the war hath been yet more unequal and burdensome to your majesty, than in any other branch of it; for being commenced without any treaty whatsoever, the allies have almost wholly declined taking any part of it upon themselves. A small body of English and Dutch troops were sent thither, in the year 1705, not as being thought sufficient to support a regular war, or to make the conquest of so large a country, but with a view only of assisting the Spaniards to set king Charles upon the throne, occasioned by the great assurances which were given of their inclinations to the house of Austria: but this expectation failing, England was insensibly drawn into an established war, under all the disadvantages of the distance of the place, and the feeble efforts of the other allies. The account we have to lay before your majesty, upon this head is, that although this undertaking was entered upon at the particular and earnest request of the Imperial court, and for a cause of no less importance and concern to them, than the reducing the Spanish monarchy to the house of Austria; yet neither the late emperor, nor his present imperial majesty, have ever had any forces there on their own account, till the last year, and then only one regiment of foot, consisting of 2,000 men: though the States-General have contributed something more to this service, yet their share also hath been inconsiderable: for in the space of four years, from 1705, to 1707, both inclusive, all the forces they have sent into that country, have not exceeded 12,200 men; and from the year 1708, to this time, they have not sent any forces or recruits whatsoever. To your majesty's care and charge, the recovery of that kingdom hath been in a manner wholly left, as if none else were interested or concerned in it: and the forces your majesty hath sent into Spain, in the space of 7 years, from 1705, to 1711, both inclusive, have amounted to no less than 57,973 men, besides 13 battalions and 18 squadrons, for which your majesty hath paid a subsidy to the emperor. How great the established expence of such a number of men hath been, your majesty very well knows, and your Commons very sensibly feel: but the weight will be found much greater, when it is considered how many heavy articles of unusual and extraordinary charge have attended this remote and difficult service: all which have been entirely defrayed by your majesty, except that one of transporting the few forces which were sent by the States-General, and victualling of them, during their transportation only. The accounts delivered to your Commons shew, that the Charge of your majesty's Ships and Vessels, employed in the service of the war in Spain and Portugal, reckoned after the rate of four pounds a man per month, from the time they sailed from hence, till they returned, were lost, or put upon other service, hath amounted to 6,540,966*l.* 14*s.* The Charge of Transports, on the part of Great Britain, for carrying on the war in Spain and Portugal, from the beginning of it till this time, hath amounted to 1,336,719*l.* 19*s.* 11*d.* That of Victualling Land Forces for the same service, to 583,770*l.* 8*s.* 6*d.* and that of Contingencies, and other Extraordinaries for the same service, to 1,840,353*l.*

"We should take notice to your majesty, of several sums paid upon account of Contingencies and Extraordinaries in Flanders, making together the sum of 1,107,096 *l.*: but we are not able to make any comparison of them, with what the States-General have expended upon the same head, having no such state of their extraordinary charge before us. There remains, therefore, but one particular more for your majesty's observation, which arises from the Subsidies paid to foreign princes. These, at the beginning of the war, were borne in equal proportion by your majesty and the States-General; but in this instance also, the balance hath been cast in prejudice of your majesty: for it appears, That your majesty

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hath since advanced more than your equal proportion, 3,155,000 crowns, besides Extraordinaries paid in Italy, and not included in any of the foregoing articles, which arise to 539,553 *l.*

"We have laid these several particulars before your majesty, in the shortest manner, we have been able; and, by an estimate grounded on the preceding facts, it does appear, that, over and above the quotas on the part of Great-Britain, answering to those contributed by your allies, more than 19 millions have been expended by your majesty during the course of this war, by way of surplusage or exceeding; in balance of which, none of the confederates have furnished any thing whatsoever.

"It is with great concern, that we find so much occasion given us to represent, how ill an use hath been made of your majesty's and your subjects zeal for the common cause; that the interest of that cause hath not been proportionably promoted by it, but others only have been eased at your majesty's and your subjects' cost, and have been connived at in laying their part of the burden upon this kingdom, although they have upon all accounts been equally, and, in most respects, much more nearly concerned than Britain, in the issue of the war. We are persuaded, your majesty will think it pardonable in us, with some resentment, to complain of the little regard which some of those, whom your majesty of late years entrusted, have shewn to the interests of their country, in giving way, at least, to such unreasonable impositions upon it, if not in some measure contriving them: the course of which impositions hath been so singular and extraordinary, that the more the wealth of this nation hath been exhausted, and the more your majesty's arms have been attended with success, the heavier hath been the burden laid upon us; whilst on the other hand, the more vigorous your majesty's efforts have been, and the greater advantages which have redounded thence to your allies, the more those allies have abated in their share of the expence.

"At the first entrance into this war, the Commons were induced to exert themselves in the extraordinary manner they did, and to grant such large supplies, as had been unknown to former ages, in hopes, thereby, to prevent the mischiefs of a lingering war, and to bring that, in which they were necessarily engaged, to a speedy conclusion: but they have been very unhappy in the event, whilst they have so much reason to suspect, that what was intended to shorten the war, hath proved the very cause of its long continuance; for those to whom the profits of it have accrued, have not been disposed easily to forego them. And your majesty will from thence discern the true reason, why so many have delighted in a war, which brought in so rich a harvest yearly from Great-Britain.

"We are as far from desiring, as we know your majesty will be from concluding, any peace, but upon safe and honourable terms; and we are far from intending to excuse ourselves from raising all necessary and possible supplies for an effectual prosecution of the war, till such a peace can be obtained. All that your faithful Commons aim at, all that they wish, is, an equal concurrence from the other powers engaged in alliance with your majesty, and a just application of what hath been already gained from the enemy towards promoting the common cause. Several large countries and territories have been restored to the House of Austria; such as the kingdom of Naples, the duchy of Milan, and other places in Italy: others have been conquered, and added to their dominions, as the two electorates of Bavaria and Cologn, the duchy of Mantua, and the bishopric of Liege; these having been reduced in great measure by our blood and treasure, may, we humbly conceive, with great reason be claimed to come in aid towards carrying on the war in Spain: and therefore we make it our earnest request to your majesty, that you would give instructions to your ministers to insist, with the emperor, that the revenues of those several places, excepting only such a proportion thereof as is necessary for their defence, be actually so applied. And as to the other parts of the war, to which your majesty hath obliged yourself by particular treaties to contribute, we humbly beseech your majesty, that you will be pleased to take effectual care, that your allies do perform their parts stipulated by those treaties; and that your majesty will, for the future, no otherwise furnish troops, or pay subsidies, than in proportion to what your allies shall actually furnish and pay. When this justice is done to your majesty, and to your people, there is nothing which your Commons will not chearfully grant, towards supporting your majesty in the cause in which you are engaged. And whatever farther shall appear to be necessary for carrying on the war, either at sea or land, we will effectually enable your majesty to bear your reasonable share of any such expence, and will spare no supplies which your subjects are able with their utmost efforts, to afford.

"After having enquired into, and considered the State of the War, in which, the part your majesty has borne, appears to have been not only superior to that of any one ally, but even equal to that of the whole confederacy; your Commons naturally inclined to hope, that they should find, care had been taken of securing some particular advantages to Britain, in the terms of a future peace; such as might afford a prospect of making the nation amends in time for that immense treasure which has been expended, and those heavy debts which have been contracted in the course of so long and burdensome a war. This reasonable expectation could no way have been better answered, than by some provision made for the farther security, and the great improvement, of the

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commerce of Great-Britain: but we find ourselves so very far disappointed in these hopes, that, in a Treaty not long since concluded between your majesty and the States-General, under a colour of a mutual guaranty given for two points of the greatest importance to both nations, the Succession and the Barrier, it appears, the interest of Great-Britain hath been not only neglected, but sacrificed; and that several articles in the said treaty are destructive to the trade and welfare of this kingdom, and therefore highly dishonourable to your majesty.

"Your Commons observe, in the first place, that several towns and places are, by virtue of this treaty, to be put into the hands of the States-General; particularly Newport, Dendermond, and the Castle of Ghent; which can, in no sense be looked upon as a part of a barrier against France; but, being the Keys of the Netherlands towards Britain, must make the trade of your majesty's subjects in those parts precarious; and whenever the States think fit, totally exclude them from it. The pretended necessity of putting these places into the hands of the States-General, in order to secure to them a communication with their Barrier, must appear vain and groundless: for the sovereignty of the Low-Countries being not to remain to an enemy, but to a friend and an ally, that communication must be always secure and uninterrupted: besides that, in case of a rupture, or an attack, the States have full liberty allowed them to take possession of all the Spanish Netherlands, and therefore needed no particular stipulation for the towns abovementioned.

"Having taken notice of this concession made to the States-General for seizing upon the whole ten provinces, we cannot but observe to your majesty, that, in the manner this article is framed, it is another dangerous circumstance which attends this treaty: for, had such a provision been confined to the case of an apparent attack from France only, the avowed design of this treaty had been fulfilled, and your majesty's instructions to your ambassador had been pursued: but this necessary restriction hath been omitted; and the same liberty is granted to the States to take possession of all the Netherlands, whenever they shall think themselves attacked by any other neighbouring nation, as when they shall be in danger from France; so that, if it should at any time happen (which your Commons are very unwilling to suppose) that they should quarrel even with your majesty, the riches, strength, and advantageous situation of these countries may be made use of against yourself, without whose generous and powerful assistance they had never been conquered.

"To return to those ill consequences, which relate to the trade of your kingdoms, we beg leave to observe to your majesty, that though this treaty revives and renders your majesty a party to the fourteenth and fifteenth articles of the treaty of Munster, by virtue of which, the impositions upon all goods and merchandises brought into the Spanish Low Countries by the sea, are to equal those laid on goods and merchandises imported by the Scheldt, and the canals of Sass and Swyn, and other mouths of the sea adjoining; yet no care is taken to preserve that equality upon the exportation of those goods out of the Spanish Provinces, into those countries and places, which, by virtue of this treaty, are to be in the possession of the States. The consequence of which must in time be, and your Commons are informed, that in some instances it has already proved to be the case, that the impositions upon goods carried into those countries and places by the subjects of the States-General, will be taken off, whilst those upon the goods imported by your majesty's subjects remain: by which means Great-Britain will entirely lose this most beneficial branch of trade, which it has been in all ages possessed of, even from the time when those countries were governed by the House of Burgundy, one of the most ancient, as well as the most useful allies to the Crown of England.

"With regard to the other dominions and territories of Spain, your majesty's subjects have always been distinguished in their commerce with them, and, both by ancient treaties and an uninterrupted custom, have enjoyed greater privileges and immunities of trade, than either the Hollanders, or any other nation whatsoever. And that wise and excellent Treaty of the Grand Alliance provides effectually for the security and continuance of these valuable privileges to Britain, in such a manner, as that each nation might be left at the end of the war upon the same foot as it stood at the commencement of it. But this Treaty we now complain of, instead of confirming your subjects rights, surrenders and destroys them: for, although by the 16th and 17th articles of the treaty of Munster, made between his Catholic majesty and the States-General, all advantages of trade are stipulated for, and granted to the Hollanders, equal to what the English enjoyed; yet, the Crown of England not being a party to that treaty, the subjects of England have never submitted to those articles of it, nor even the Spaniards themselves ever observed them: but this treaty revives those articles in prejudice of Great-Britain, and makes your majesty a party to them, and even a guarantee to the States-General for privileges against your own people.

"In how deliberate and extraordinary a manner your majesty's ambassador consented to deprive your subjects of their ancient rights, and your majesty of the power of procuring to them any new advantage, most evidently appears from his own letters, which, by your majesty's directions, have been laid before your Commons: for, when matters of advantage to your majesty and to your kingdom had been offered, as proper to be made parts of this treaty, they were refused to be admitted by the States-General, upon this reason and principle, that nothing foreign to the guaranties of the Succession and of the Barrier, should be mingled

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with them; notwithstanding which, the States General had no sooner received notice of a treaty of commerce concluded between your majesty and the present emperor, but they departed from the rule proposed before, and insisted upon the article of which your Commons now complain, which article your majesty's ambassador allowed of, although equally foreign to the Succession, or the Barrier; and although he had, for that reason, departed from other articles, which would have been for the service of his own country.

"We have forborne to trouble your majesty with general observations upon this Treaty, as it relates to, and affects the empire, and other parts of Europe. The mischiefs which arise from it to Great-Britain, are what only we have presumed humbly to represent to you. As they are very evident and very great, and as it appears, that the lord viscount Townshend had not any orders or authority for concluding several of those articles which are most prejudicial to your majesty's subjects, we thought we could do no less than declare your said ambassador, who negociated and signed, and all others who advised the ratifying of this Treaty, enemies to your majesty and your kingdom.

"Upon these faithful informations and advices from your Commons, we assure ourselves, your majesty, in your great goodness to your people, will rescue them from those evils, which the private counsels of ill-designing men have exposed them to; and that, in your great wisdom, you will find some means for the explaining and amending the several articles of this treaty, so as that they may consist with the interest of Great-Britain, and with a real and lasting friendship between your majesty and the States-General."*

The Queen's Answer.] Her majesty gave this Answer:

"This Representation is a further instance of that dutiful affection to my service, and concern for the public interest, which this House of Commons has always shewn.—You may be assured that I will give such orders as shall effectually answer what you desire of me in every particular."

Specific Explanation of the Offers of France for a General Peace.] The French plenipotentiaries at the Congress of Utrecht, did about this time deliver their Proposals in writing, as follows:

A SPECIFIC EXPLANATION of the Offers of France for a General Peace, to the Satisfaction of all the Parties concerned in the present War.

"The king will acknowledge at the signing of the Peace, the queen of Great Britain in that quality, as also the Succession of that crown according to the present settlement, and in the manner her Britannic majesty shall please.—His majesty will cause all the fortifications of Dunkirk to be demolished immediately after the Peace, provided an equivalent be given him to his satisfaction.—The island of St. Christopher, Hudson's bay and strait of that name, shall be yielded up entire to Great Britain; and Acadia, with Port Royal and the Fort, shall be restored entire to his majesty.—As to the island of Newfoundland, the king offers to yield up that also to Great Britain, reserving only to himself the fort of Placentia, and the right of catching and drying fish, as before the war.

"It shall be agreed to make a Treaty of Commerce before or after the Peace, as England shall choose, the conditions of which shall be made as equal between the two nations as they can possibly.

"The king will consent at the signing the Peace, that the Spanish Netherlands, which are given over to the Elector of Bavaria by the king of Spain, shall serve for a Barrier to the United Provinces; and to augment it, he will join thereto Furnes and the Furner-Ambacht or district, Knock, Ypres, and the castellany of Menin, with its virge: In exchange, his majesty demands to form the Barrier of France, Aire, St. Venant, Bethune, Douay, and their dependancies.

"If the States-General are desirous to keep garrisons in the fortified towns of the Barrier so formed of the dominions transferred to his Electoral Highness, and of what France adds thereto of its own, his majesty consents, that they shall put their troops into them in as

* "Nothing could more amply justify the proceedings of the queen and her ministers, for two years past, than this famous Representation; the unbiassed wisdom of the nation, after the strictest inquiry, confirming those facts upon which her majesty's counsels were grounded; and many persons, who were before inclined to believe that the allies and the late ministry had been too much loaded by the malice, misrepresentations, or ignorance of writers, were now fully convinced of their mistake by so great an authority. Upon this occasion I cannot forbear doing justice to Mr. St. John, who had been Secretary of War, for several years, under the former administration, where he had the advantage of observing how affairs were managed both at home and abroad. He was one of those who shared in the present Treasurer's fortune, resigning up his employment at the same time; and upon that minister's being again taken into favour, this gentleman was some time after made Secretary of State. There he began afresh, by the opportunities of his station, to look into past Miscarriages; and, by the force of an extraordinary genius, and application to public affairs, joined with an invincible eloquence, laid open the scene of Miscarriages and Corruptions through the whole course of the war, in so evident a manner, that the House of Commons seemed principally directed in their resolutions, upon this inquiry, by his information and advice." Swift's Four Last Years.

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great number as they please; and besides, that they shall be maintained at the expence of the country.

"In consideration of this cession, and of this consent, the king on his side demands, as an equivalent for the demolishing of Dunkirk, the towns and citadels of Lisle and Tournay, with their castellancies and dependancies.

"The Barrier thus regulated between France and the States-General, the king will grant for augmenting the commerce of their subjects, what is stipulated by the treaty of Ryswick, and the advantageous tariff of 1664, with an exception only of six sorts of merchandize which shall be agreed on, and which shall be charged with the same duties that are paid at this time; as also the exemption of 53 sols per ton on the Dutch shipping that come into France from the United Provinces and foreign countries.

"As to the commerce of Spain and the Indies, the king will engage not only to the States-General, but likewise to her Britannic majesty, and to all the other potentates, by virtue of the power he has in this particular, that the said commerce shall be allowed exactly, and carried on in the very same manner as it was, under the reign, and till the death of Charles 2; and will promise, that the French shall submit, as all the other nations, to the ancient laws and regulations made by the kings his catholic majesty's predecessors, with respect to the commerce and navigation in the Spanish Indies.

"His majesty further consents, that all the potentates of Europe may enter into the guaranty of this promise. His majesty promises, that the king his grandson shall renounce, for the sake of the peace, all pretensions to the kingdoms of Naples and Sardinia, as well as to the duchy of Milan; in whose name he will consent, that the part of that duchy which is made over to the duke of Savoy, shall remain to his royal highness: provided that in consideration of this cession, the House of Austria do in like manner desist from all pretensions to the other parts of the monarchy of Spain, from whence that House shall withdraw their troops immediately after the Peace.

"The frontiers on both sides upon the Rhine, shall be settled on the same condition as they were before the present war.

"In consideration of all the terms above specified, the king demands that the electors of Cologn and Bavaria shall be re-established in the full and entire possession of their dominions, dignities, prerogatives, goods moveable and immoveable, which they enjoyed before this present war: and reciprocally, his majesty will recognize in Germany and Prussia, all the titles which he has not yet acknowledged.

"The king will restore to the duke of Savoy what he has taken from him during this war; as in like manner his royal highness shall restore to him what he has taken from France; so that the limits on both sides shall be the same they were before the declaration of war.

"All things as to Portugal shall be re-established, and remain on the same foot in Europe, that they were before the present war, as well with regard to France as to Spain; and as to the dominions that crown hath in America, if there be any differences to settle, endeavours shall be used to agree them amicably.

"The king will consent freely, and *bona fide*, to take, in concert with the allies, all the most just measures, for hindering the crowns of France and Spain from being ever united on the same head; that is to say, that one and the same prince shall never be at once king of both.

"All preceding treaties, that is, those of Munster, and others that have been made since, shall be repeated and confirmed, to remain in their force and virtue; excepting only such articles, from which the Treaty of Peace now to be made shall derogate, or alter something. (Signed) "HUXELLES."

These Proposals of France were entertained with so universal an indignation, that it went near to reconcile the two contending parties; both Whig and Tory suspending and silencing their inveterate feuds, and joining to exclaim against the haughtiness of the common enemy; who even when he lay gasping for life, seemed to dictate to the conquerors.

Lord Halifax's Motion thereon.] The lord Halifax made a motion in the House of Lords, on the 15th of February, for presenting an Address to the queen, about the Specific Offers of France, which his lordship called, 'trifling, 'arrogant, and injurious to her majesty and 'her allies.' He was seconded by several peers of both parties, who said, in substance, "That those propositions ought to be rejected with the utmost indignation, that it plainly appeared France had no other design in view than to amuse and divide the allies; and in particular, that it was derogatory to her majesty's honour, to enter into any negociation with that crown, before her majesty's just title was acknowledged." Some endeavours were used to adjourn the debate to the Monday following, or, at least, to the next day; by suggesting, "That the Offers that were handed about, having yet no other authority than their being inserted in the Holland Gazettes, might not be genuine; and therefore the Lords ought not to take any notice of them, till such time as the queen had communicated them to the House." But this, and other arguments were over-ruled, and it was resolved, without dividing, to address her majesty.

The Lords' Address thereon.] A committee was thereupon appointed to draw up that Address, which, the same day, was reported and agreed to, and, by the whole House, presented next day to the queen, as follows:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled,

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beg leave humbly to represent to your majesty the just indignation of this House, at the dishonourable treatment of your majesty by France, in having proposed to acknowledge your majesty's title to these realms no sooner than when the peace shall be signed. And we cannot forbear expressing our utmost resentment at the terms of peace offered to your majesty and your allies by the plenipotentiaries of France: And we do with the greatest zeal and affection, assure your majesty, that this House will stand by, and assist your majesty with our lives and fortunes in carrying on this war, in conjunction with your allies, till a safe and honourable peace can be obtained for your majesty and your allies."*

The Queen's Answer.] The queen gave this Answer:

"My Lords; I return you my hearty thanks for the zeal you express for my honour, and for the assurance you give of supporting me."

The Place Bill rejected by the Lords.] On the 29th of February, the Lords read the second time the Bill from the Commons, for securing the Freedom of Parliaments, by limiting the number of Officers sitting in the House of Commons: Which being committed to a Committee of the whole House, their lordships immediately resolved themselves into that Committee; and after a debate which lasted till nine o'clock in the evening, the question being put, Whether the said Bill should pass? It was carried in the negative, by five or six voices: Some Peers, who were said to be for the bill, being absent, and not having left their proxies.

Votes against the Election of Mr. Robert Walpole.] March 6. The Commons took into consideration the merits of the Petition of Samuel Taylor, esq. and of the freemen and burghers of the borough of King's-Lynn, in the county of Norfolk, against the election of Robert Walpole, esq. and a motion being made, and the question put, that counsel be called, it passed in the negative. Then the writ for electing a burgess for the said borough, in the room of Robert Walpole, esq. expelled the House, and also the sheriff of Norfolk's precept thereupon, and the indenture of the return between the said Sheriff and the Mayor and burgesses of the said Borough were read: After which it was resolved, "1. That Robert Walpole having been, this session of parliament, committed a prisoner to the Tower of London, and expelled this House, for an high breach of trust in the execution of his office, and notorious Corruption when Secretary at War, was, and is incapable of being elected a member to serve in parliament. 2. That Samuel Taylor is not duly elected a burgess to serve in this present parliament for the borough of King's-Lynn. 3. That the late Election for a burgess to serve in this present Parliament for the said borough of King's-Lynn is a void election:" And thereupon it was ordered, "That Mr. Speaker do issue his warrant to the clerk of the crown, to make out a new writ for the electing a burgess for King's-Lynn, in the room of Robert Walpole."

SECOND REPORT OF THE COMMISSIONERS OF PUBLIC ACCOUNTS—*Revenue of Scotland—Public Monies unaccounted for—Mr. Walpole's Accounts.*]—March 17. The Second Report of the Commissioners of Public Accounts was laid before the House, as follows:

"Your Commissioners here humbly present a State of the Receipts and Issues of your majesty's Exchequer, from the feast of St. Michael 1710, to the feast of St. Michael 1711, taken from the Returns made to them by the several officers concerned in the management of the public Revenue; to which they beg leave to add their Observations on some Matters of Fact, that have appeared to them in the prosecution of their enquiries.

"They do not presume to urge any reasons for their not having made a greater progress, because they humbly hope the House will believe their utmost application hath not been wanting. But they take liberty to repeat what they formerly mentioned, that the whole Accounts of the Army (which is the greatest branch of the public expence) are not yet delivered to them; though, as they are assured by the pay-master of the forces abroad, all dispatch is used in preparing those accounts; and your Commissioners cannot effectually enquire into the Mismanagements of the Army which they have in view, till those Accounts are completely brought before them, and till they shall have compared the several facts with the particular Articles relating to them: for it is from thence they will be able to draw the best and truest observations, and to form the justest and most exact representations.

"Your Commissioners conceive it not improper to begin this Report with the Revenue of Scotland, because some Facts of consequence, and, in their opinion, highly deserving the consideration of the House, have occurred to them in the examination thereof.

"But, before they offer their Observations, they must take notice of a very material circumstance relating to this Revenue; which is, that they cannot find any Commission for constituting Lords-Commissioners of the Treasury there, from the time of her majesty's accession to the throne, till after the Union; the last commission before the Union, bearing date the 30th of January 1696.—By an act of parlia-

* "Feb. 16. The Lords have voted an Address to the queen, to tell her they are not satisfied with the king of France's Offers. The Whigs brought it in of a sudden: and the court could not prevent it, and therefore did not oppose it. The House of Lords is too strong in Whigs, notwithstanding the new creations: for they are very diligent, and the Tories are lazy; the side that is down has always most industry: The Whigs intended to have made a vote, that would reflect on the Lord Treasurer: but their project was not ripe." Swift's Journal.

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ment passed in Scotland, October the 9th, 1696, it is, amongst other things, enacted, 'That no Commission civil or military, shall 'become void by the death of the king, but 'that the same shall continue in force the space 'of six months, unless recalled by the next 'successor.' On the death of king William, a Proclamation was issued, by which all officers civil and military, were authorised and required to act in all things conformable to the last commissions and instructions they had from his late majesty, till new Commissions from the queen could be prepared and sent down to them.

"Some time after this, new commissions were sent down appointing all the officers civil and military in Scotland, except only those for the Treasury, for which no commission was granted by her majesty till the 23d of June 1707. But we must observe that by the usage of Scotland, when any alteration is made in the Treasury, it is not done by renewing the commission, as here in England, but by a letter from the crown. And her majesty was pleased to make so many alterations, that the major part of the commissioners were changed within the time of her accession to the throne, and that of the Union, by letters in the form following:

"'Whereas we have resolved to appoint A. 'B. to be one of the Commissioners of our 'Treasury, these are therefore to authorize and 'require you, to admit and receive him as one 'of your number; hereby giving and granting 'to him the same power and authority, with 'all privileges and immunities whatsoever, that 'are or have been competent to any other Com-'missioner of Treasury, and declaring these 'presents to be for his admission, of as full 'force, strength and effect, as if he had been 'nominated and appointed in, and by our Com-'mission granted to you under our Great-'Seal, whereanent we have thought fit to dis-'pense.'

"From whence it is observable, that the whole public Revenue of Scotland was for some time left without any legal direction or government. For the commission of king William could be continued by virtue of the act of parliament, no longer in force than six months, nor by the proclamation, any longer than till her majesty's signing the first letter, after the expiration of the six months: for the words, 'As 'if he had been nominated and appointed in 'and by our commission granted to you under 'our Great Seal,' seem to determine the effect of that proclamation, and suppose a commission granted by her majesty. But, allowing the first letter was not a total repeal of king William's commission, and only a repeal in part; yet it must be admitted, that as soon as her majesty had added a majority of new commissioners, or so many as being joined with the lesser number of the old, would make a majority, then the old commission was superseded and the Treasury under a new (if any) administration.

"Now, your Commissioners are humbly of opinion, that these letters referring to a patent which was never in being wanted a foundation, and could by no construction of law ever have any operation or effect; and that those, who, under colour of them, were admitted into the Treasury, have acted without authority.—But we presume not to argue how far their proceedings may be thought illegal, or whether her majesty may be said to have been deceived by this neglect or mismanagement, or how extensive the mischiefs have already been, or may hereafter be to Scotland, or how far it will involve the people there, who have been concerned in contracts, leases, purchases, or otherwise, with the Treasury.—But certain it is, that the public hath been rendered liable to many inconveniencies, and her majesty must have been deceived when she ordered loans from the Treasury of England to the Treasury of Scotland, particularly that of 20,000*l.* in the year 1706: for the Treasury of Scotland not being then (as we observe) rightly constituted, could neither give security for money lent, nor legally make repayment of it.

"Your Commissioners therefore, with great submission, propose it to the house, whether this defect will not want the assistance of the legislature, or whether the present proceedings of the court of exchequer in Scotland, relating to any mismanagements of the revenue thereof during this suspension of the commission and legal power of the Treasury, are not void; and consequently, whether the judgments grounded upon them will not be found ineffectual.—But having humbly mentioned this circumstance of the Treasury of Scotland, we will proceed to the Revenue, and begin with an account of the loan of 20,000*l.* in the year 1706, as it appears to us, in the manner and by the evidence following.

"We, having ground to believe, that considerable sums of public money had been sent from England to Scotland, when the act of Union was under consideration in the parliament there, enquired into the reasons of it; and understanding that sir David Nairn had been concerned in the receipt and remittance of 20,000*l.* we examined him on oath, and he declared to the effect following: That in 1706 he received the sum of 20,000*l.* at two several payments, 10,000*l.* on the 17th of October, and 10,000*l.* more on the 26th of November following, for which he gave two receipts to Sidney, earl of Godolphin, then Lord-Treasurer of England. That this money was lent, as he declared, by her majesty to the Treasury of Scotland, upon a representation from the duke of Queensberry, earl of Seafield, earl of Marr, earl of Loudon, and earl of Glasgow, that there were deficiencies in the Civil List, and upon their promise that it should be repaid, which he thinks, was accordingly done out of the Equivalent-money: that he was empowered by a letter from the lords of the Treasury in Scotland, to receive that money here and to give a receipt for it, which he accordingly did and by their direction remitted it to the earl of Glas-

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gow, at Edinburgh; but knows nothing certain of the distributing of it, has heard only, that it was paid to the lord Twedale, and other of the queen's servants.

"All which is confirmed by the earl of Glasgow, who, in return to a Precept of your Commissioners, after giving a particular account of the distributing of the 20,000*l.* in Scotland, declares on oath, (to use his own words) That it consisted with his own proper knowledge, that 12,325*l.* were paid back after the Union to the earl of Godolphin, then Lord-Treasurer:

"But your Commissioners finding no mention of the receipt of this sum of 12,325*l.* or of the other remaining part of the 20,000*l.* in the certificates, or books of the exchequer, were unwilling to make any representation of the fact till they had given the earl of Godolphin an opportunity of declaring what he knew of this Loan to Scotland, and on some questions proposed to his lordship relating thereunto, he made the underwritten Deposition.

"'The right honourable the earl of Godolphin being sworn, deposeth, That he had 'the queen's commands in the year 1706, or 'thereabouts, when the kingdoms of England 'and Scotland were separate, to lend to the 'Treasury of Scotland, the sum (as he thinks) 'of 20,000*l.* that he cannot recollect whether 'any part of it was repaid, but that he under-'stood it was to be employed for her majesty's 'secret service in Scotland. GODOLPHIN. '*Jurat* 25 Feb. 1711-12:

"The day after this deposition was made, his lordship transmitted the following Letter to your Commissioners:

'Gentlemen, Feb. 25, 1711-12.

'In pursuance of what I said to you yes-'terday at your board, I have endeavoured to 'recollect myself as well as I am able upon the 'subject you mentioned to me, and do believe, 'that 12,000*l.* or thereabouts, was repaid to 'the queen by her servants of Scotland, and to 'the best of my remembrance, they prevailed 'with her majesty not to require the remainder 'of the 20,000*l.* from them. I am, &c. GO-'DOLPHIN.'

P. S. 'When I said yesterday, that I under-'stood this money was to be made use of for 'the queen's secret service in Scotland, I only 'meant that I thought so, but was not certain 'of it.

"Your Commissioners, after the receipt of this Letter, gave the earl of Godolphin the trouble of coming to them a second time, and then his lordship was pleased to make another Deposition in these terms:

'The right honourable the earl of Godol-'phin being sworn, deposed, That the 12,000*l.* 'or thereabouts, mentioned in his lordship's 'letter of the 25th of February 1711-12, to 'the Commissioners of Public Accounts, and 'said to be repaid, was not, as he remembers, 'repaid to his lordship, nor doth his lordship 'know of any account of it, nor of any war-'rant for the disposal of this particular sum 'since, the repayment of it, to any person 'whatsoever. GODOLPHIN. *Jurat* 3 Mar. '1711-12.'

"On a view of the whole Case thus stated, your Commissioners humbly offer the following Observations:

"That it is plain by the two letters from the Lords of the Treasury in Scotland, that this sum of 20,000*l.* was not advanced to them by way of secret service, or as a gift, but as a loan on promise of repayment, and receipts were accordingly given for it by their agent here, but your Commissioners are at a loss to explain some expressions in these letters, viz. That opposers to the Union would make some noise if her majesty's letter was read in the Treasury, that they had been obliged to give promises to several persons, and, without the sum desired, they would be disappointed, which might prove of bad consequence, that they would not have it known, that her majesty lends any money, &c. —Nor will we presume to guess at the reasons of these insinuations, but humbly conceive, that, if the money had been fairly applied to the pretended purposes, there could have been no just occasion for so much caution and jealousy.

"But, whatever inducements the Lords of the Treasury in Scotland, might have for transacting this affair in so secret a manner, we are of opinion that the persons employed here by her majesty ought not to have parted with the money, till her majesty's letter had been read in the Treasury of Scotland, and till a proper security had passed there for it.—Whereas, it was paid on the receipt of a private agent, and at the request of private persons, for so we must take leave to call the noble lords who signed these two letters to the earl of Godolphin, because they could not sign them as Lords of the Treasury; for, the earl of Marr was never in this commission, and the earl of Loudon had for some time been removed from it.

"However, since the Loan was made (as appears by the Depositions on all hands) it is to be considered, whether the money was ever repaid; and this cannot be so well understood, as by comparing the evidence of the two noble lords.

"First, then, the earl of Glasgow deposes in positive and express terms, That 12,325*l.* was paid back to the earl of Godolphin; and, in a letter to your Commissioners, he affirms, that he had already accounted with the earl of Godolphin for the money remitted, from the 1st of May, 1706, to the 1st of May, 1707, from England to Scotland; which evidence, must be allowed, would at least have been sufficient to charge the earl of Godolphin, with the article of 12,325*l.* had it not (in some measure) been contradicted by the earl of Godolphin's first deposition, wherein, his lordship is so far from charging himself with the receipt of that particular sum, or with passing any account with the earl of Glasgow for the whole, that he could not recollect, that any part of it was repaid; but says, that he understood, it was to be em-

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ployed for her majesty's secret service in Scotland, nor is this variation reconciled, in your Commissioners' humble opinion, either by his lordship's Letter or subsequent Deposition.

"For though his lordship recollects himself in his letter, and says, That he believes 12,000*l.* or thereabouts was repaid to the queen by her majesty's servants in Scotland, and, to the best of his remembrance, they prevailed with her majesty not to require the remainder of the 20,000*l.* and that when he said, he understood the money was for secret service in Scotland, he meant, that he thought so, but was not certain of it; yet that does, in no sort, confirm or concur with the evidence of the earl of Glasgow; but this letter being sent only on a doubtful recollection, and the facts contained in it being offered with so much uncertainty, your Commissioners forbear to make any conclusions from it.

"But the last Deposition seems to return to the first contradiction of the earl of Glasgow's evidence, for, notwithstanding his lordship does there admit the repayment of the 12,000*l.* or there abouts, as mentioned in his letter, he denies it was repaid, as he remembers, to himself, and deposes, that he doth not know of any account of it, nor of a warrant for the disposal of it, since the repayment to any persons whatsoever; which is absolutely inconsistent with what the earl of Glasgow mentions in his letter concerning his passing an account for this money; besides the repayment is supposed by the earl of Godolphin to be made to the queen, whereas the earl of Glasgow, as it hath been said, charges it positively upon the earl of Godolphin himself.

"How far these Depositions and Letters are capable of being explained into a consistency with each other, your Commissioners must leave to the wisdom and determination of the House; but it is obvious, that there is no where any pretence of a repayment of the 7,675*l.* remainder of the 20,000*l.* nor any satisfactory account given of the 12,325*l.* since repaid.—So that no part of the money appearing to have been applied to her majesty's service, your Commissioners are humbly of opinion, that the whole remains to be accounted for to her majesty.

"As to the Revenue of Scotland, your Commissioners doubt not but the House will be pleased to consider, that they must necessarily have met with many difficulties to their enquiries into the mismanagement of it, by reason of the remoteness of the place, where all the offices and records relating to the public money, are kept; from whence, not only discoveries and informations, but witnesses, to prove and make good the same, must be brought; and this would have been attended with so much trouble and expence, that some examinations have been rendered impracticable, which in another year may be prosecuted with better effect.

"Your Commissioners therefore humbly hope, that some general Observations on the present State of the Scots Revenues will answer what is now expected from them with relation to that kingdom.

"By the state of the Crown-Rents, exhibited to your Commissioners from the barons of the exchequer, it appears that they are so burdened with Grants within these few years, and the exorbitant salaries of the several collectors and stewards, that the greatest, and by much the best, part of them is exhausted; besides, it is worthy observation, that, of the little which still remains to the crown, very considerable arrears are suffered to continue in the vassals hands.

"The Revenues of the Bishops, which, after the subversion of episcopacy, were annext to the crown, are in a worse state than the other Crown-Rents. For there are few signed and authentic rentals of the revenues of the said Bishoprics to be found in the Exchequer; and such as are, do differ in so many particulars from the charge the several collectors do bring upon themselves, that there appears no certain rule for making a charge upon the said collectors, not to ascertain the yearly produce of that revenue.

"There can be no controul upon many articles in the discharge of the Collectors Accounts; such as Grants to several laymen, universities and presbyterian seminaries, and Allocations by virtue of the lords of sessions decrees, for the augmentation of ministers stipends and schoolmasters salaries; because the grants and rights of the several grantees are not duly entered in the Records of the Exchequer, and the collectors cannot prevent their payment till these grants and rights are recorded, and the validity thereof considered: Many of these grantees have entered into possession, and raise the rents themselves, or refuse to pay their tithes.

"Under these difficulties it was impossible for your Commissioners, at this time, to state a certain account of the yearly produce of these Revenues, or how and on what account they are burdened.

"But, by the best estimate we can make, after deducting the Grants and Allocations claimed and retained by the several grantees, the public taxes and other allowances craved by the collectors, the whole revenue of all the Bishoprics at a medium for several years (part of the rents being paid in kind, and causing the yearly produce to vary) amounts to no more annually to the queen, than 600*l.* or thereabouts, exclusive of the revenue of the deanry of the chapel-royal, which is about 230*l.* and enjoyed by Mr. William Carstaires: From which 600*l.* above 500*l.* per annum hath, for these several years past, been deducted for the salaries of two persons employed to collect the same.

"We have enquired into the Management of the money given by England as an Equivalent to Scotland, for such part of the Scots custom and excise, as was applicable, by the article of the Union, to the payment of the English debts contracted before the Union.

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And we do observe, that the first commission, dated the 5th of June, 1707, appointing commissioners of the Equivalent, consisted of 25 persons, whereof 16 were members of the House of Commons, and lasted for two years; that, the House of Commons having addressed the queen to reduce the number of those commissioners, because, the greatest part of the Equivalent money was issued, a new commission was appointed, dated the 26th of July 1709, consisting of 15 persons, which still continues. That each Commissioner being allowed a yearly salary of 300*l.* the salaries of the first Commissioners amounted to 7,500*l.* per ann. and the second to 4,500*l.* per ann. the whole in four years time being 24,000*l.* From whence it appears, that a great part of the money that was designed for paying the public debts of Scotland, has been expended, as your Commissioners conceive, contrary to the true intent and meaning of the Articles of the Union, and the subsequent acts of parliament relating to this money. For your Commissioners are of opinion, that the receiving and distributing of the Equivalent Money, was not a work of so intricate a nature, nor attended with such difficulties and labour, but that it might have been sufficiently performed by a much less number of Commissioners than were appointed in either of the commissions, and thereby a large sum of money saved and applied for payment of the public debts, many of which remain still unsatisfied.

"By the 15th Article of the Union, it was agreed, that the yearly sum of 2,000*l.* should be paid for the space of 7 years out of the Equivalent money, for encouraging of the manufactories of coarse wool, the first 2,000*l.* to be paid at Martinmass, 1707, and the like sum at each Martinmass during the said 7 years. By the 16th act of the last Scots parliament, entitled, 'An Act concerning the Public Debts,' it is provided, that the said sum of 2,000*l.* per ann. shall be paid previous to the public debts. By both the aforesaid commissions, the commissioners are required to apply the Equivalent money in the terms, and after the manner and the uses prescribed by the aforesaid articles of the Union and acts of parliament.

"Nevertheless, in the State of the Cash of the Equivalent exhibited to us by the Commissioners, they charge themselves with 14,000*l.* appointed by the coarse wool; but in the discharge, it does not appear, that any sum has been applied or reserved for that purpose, the whole sum of 398,085*l.* 10*s.* being issued and expended for other uses. And we can't but take notice, that though they charge themselves with the said 398,085*l.* 10*s.* specifying the particular uses to which every part thereof was appropriated; yet in the discharge of the said account, instead of applying the said sum to the aforesaid appropriated uses, they state 1,340*l.* 5*s.* 5*d.* as the salaries of 21 Commissioners, from the 5th of June 1707, to the 25th of July, 1709, being two years and 51 days, and 9,000*l.* as two years salary of the 15 present Commissioners, from the 25th of July, 1709, to the 26th of July 1711, amounting in the whole to 22,480*l.* 5*s.* 5*d.* of which they have received in money the sum of 19,698*l.* 18*s.* 10½*d.* and they state the remaining 2,781*l.* 6*s.* 6½*d.* as a balance to them.

"By the act of the 6th of the queen, entitled, 'An Act for the further Payment of the Equivalent,' each Commissioner of the Equivalent is allowed a yearly salary of 300*l.* but it is expressly provided, that the same shall be paid out of any sum of money, other than the sum of 398,085*l.* 10*s.* the first Equivalent Money that have, or shall become due to Scotland by way of Equivalent. From which we humbly conceive, the Commissioners have no right to demand and state the said sum of 22,480*l.* 5*s.* 5*d.* out of the said sum of 398,085*l.* 10*s.* paid to them.

"The Commissioners by the State of the Cash have overpaid the sum of 2,781*l.* 6*s* 6½*d.* whereas we humbly conceive, that, if they be compelled to account in the terms of the articles of the Union, acts of parliament, and their own Commission, there doth remain in their hands the sum of 19,698*l.* 18*s.* 10½*d.* detained by them for the payment of their salaries, and for which they are accountable.—The Customs of Scotland before the Union, were let in lease by the Lords of the Treasury there, and your Commissioners, having reason to believe, that the farmers thereof were guilty of many illegal practices highly prejudicial to trade and her majesty's revenue arising from the customs, before and since the Union, have made some enquiries into that affair. But the same being a matter of great consequence, very intricate, and attended with many difficulties, your Commissioners beg leave to postpone a particular report thereof, till they shall be better prepared to set it in a true light.

"Your Commissioners being informed, that the Commissioners appointed by an act of the 6th of her majesty's reign, entitled, 'An Act 'for paying the debentures of fish and flesh, 'cured with foreign salt imported before the 'Union, and ascertaining the price of foreign 'salt remaining in Scotland,' had not applied all the money given by the said act to the uses therein mentioned, and particularly that they had made several deductions from the said debentures, and price of salt allowed by law, did require the said Commissioners to exhibit a state of their accounts; in which it did not appear, that they had made any deductions whatsoever; the full value of the debentures and price of the salt delivered over to the queen's use, being stated in their discharge.

"But having examined upon oath Mr. Gilbert Stewart, one of the said Commissioners, he deposed, the sum of 2,780*l.* 8*s.* 1*d.* was proportionably deducted from the said debentures and price of salt, on account of charges in obtaining of the act of parliament, for paying the said debentures and salt. That this was done by the consent of almost all the proprietors, who by a deed under their hands did appoint a

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Committee of their own number, to state and allow such a deduction on this account as they should think reasonable. Which committee did agree to the said sum of 2,780*l.* 1*s.* 1*d.* and directed the payment thereof in the manner, and to the persons mentioned in an act signed by them, and exhibited on oath to your Commissioners by the said Mr. Gilbert Stewart.—By an article in this account the sum of 195*l.* is stated as paid to William Cockran, esq. on the account of his charges in obtaining the act of parliament for paying the said debentures and salt.—And the said Mr. Stewart did on oath acquaint the Commissioners, that Mr. Cockran was concerned in trade with the said Stewart and others, who gave a commission to Mr. Cockran to go to London, and dispose of a quantity of goods they had sent thither, and did promise to pay him what charges and expences he should be at on that account. That afterwards, when Mr. Cockran returned from London, he charged and claimed in his account, 300*l.* as his expences, which Mr. Stewart and his partners allowed him with this proviso, that he should pay to them whatever sum should be given as a gratuity from the proprietors of the salt and debentures, on account of his services in obtaining the said act. That accordingly, when the said 195*l.* allotted to Mr. Cockran was paid, he gave his receipt for it: But the said Stewart retained the money, and afterwards divided it betwixt himself and partners in trade, conformable to the above-mentioned agreement with Mr. Cockran.

"Your Commissioners having humbly given their thoughts on our mismanagement in the public revenues of Scotland, will now proceed to such observations as have occurred to them in pursuing the accounts of that of England.

"First we have endeavoured to examine into the reason how so large sums of public money remain still unaccounted for by the persons entrusted with it; and we conceive this proceeds from the neglect of those in issuing process. For in some cases, process hath never been issued; in others, where it hath been issued, the returns were generally Nichils, or of very small issues, even where the accountants were possessed of considerable estates in land, and other valuable effects.

"And there hath not been only a neglect of issuing process against accountants, but warrants have been often granted from the treasury, to stop the execution thereof when issued. Where accounts have been many years depending, and where there was reason to suspect the circumstances of the accountants, which, grounded upon better pretences than any yet appear to your Commissioners, must be an imputation of mismanagement.

"Some attempts have been made of late towards curing this evil, for a *Capias ad Computandum*, which is the most essential process of the Exchequer, and which hath for many years been disused, is now revived, and an office appointed to issue it against the persons of the accountants, where a distringas is not sufficient. This hath been done with so good effect, that accounts of money, impressed many years past, have been lately delivered to the auditors.—Many instances of what is here inserted, have appeared to your Commissioners, in certificates delivered on oath by the proper officers, some of which we humbly lay before you, &c.

"But as the neglect of passing accounts, according to the rules and methods of the Exchequer, has been a great detriment and loss to the public, so it has been a great prejudice, that many accounts have been passed by privy seals, and in an extraordinary and irregular manner. For, on perusing and examining some of them, we find that they have not been desired so much to supply the want of form, (the only colourable pretence for allowing them) as to justify unreasonable and extravagant payments, such as are directly contrary to the rules of the navy; not warranted by the establishments of the army, nor grounded on any treaties or conventions with foreign princes.

"In the privy seals granted or craved, and for which warrants are obtained by the paymaster of the army, several articles are included, which, as far as we are capable of judging, ought not to have been allowed.

"As in particular for secret service, which had no relation to the army.

"For paying the foreign forces in British pay, according to the establishment, without muster rolls; which your Commissioners are of opinion was one great reason that no care was taken to keep the corps complete.

"For allowing Contingencies and Extraordinaries according to the Dutch secretary's certificates, without farther vouchers.

"For payment to the electors of Treves and Cologn, not referring to, or grounded on any treaty.

"In a privy seal for passing the accounts of Paul Methuen, esq. son of John Methuen, esq. we find the following extraordinary payments allowed: '1. The charge of embarking one, 'and disembarking another Dutch regiment. '2. 3,000 mill-reis on a bill drawn by the 'prince of Hesse on M. Schonenburgh, the 'Dutch plenipotentiary; which being refused 'by him, was paid, as is set forth in the privy 'seal, by the said Mr. Methuen, for the honour 'of that prince, and there declared it ought to 'be repaid by the States General. 3. 1,854 'mill-reis expended in presents given to the emperor of Morocco, and in maintaining his ambassador. 4. 35,595 mill-reis for the subsisting, cloathing, and arming of Spaniards. For 'the payment of which, we do not find he had 'any authority but the king of Spain's order. '5. 1,125 mill-reis for freight of the king of 'Spain's coaches and horses, and powder presented to him by the king of Portugal.'

"In the account delivered to us by Mr. Methuen, he charges 7,635 mill-reis, as paid on account of the Spaniards before-mentioned, which was not included in the privy seal, and

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owns, that for several articles allowed in that privy seal, no vouchers could be produced.

"There are great sums due on bonds for her majesty's Customs, which has occasioned a considerable loss to the government; the merchants from whom they were taken, being many of them, with their securities, become insolvent. This loss, we apprehend, might, in some measure, have been prevented, had the bonds been put in suit, as they ought to have been, immediately after they became due, and not continued so long in the remembrancer's hands without prosecution; or had care been taken not to have suffered the merchants to have engaged into new bonds, before they had discharged the principal and interest on their former bonds, according to the instructions of the Commissioners of Customs to their officers.

"By these Compositions, the public has lost 112,499*l.* 17*s.* 7*d.*½ supposing the whole sum compounded for was paid into the Exchequer, but as there has been only 22,227*l.* 9*d.*¾. paid, the loss to the public on this head, may be computed at 117,950*l.* 3*s.* 11¼*d.*

"Of the money issued for the Transport Service, there has been paid 121,125*l.* 17*s.* 6*d.*½ to Mr. Atkinson and Mr. Roop, who, from 6th Feb. 1701, to 23rd June, 1704, transacted the whole business of this office, on the examination of whose accounts, we humbly offer the following Observations:

"That notwithstanding they are entrusted with the disposition of so large sums, no security was ever taken or demanded, either for the faithful discharge of their trust, or the due answering the sums issued to them.

"That they never received any instructions, by which they should guide themselves in the execution of their office, but being left at liberty to make their payments in what manner they pleased, they neither numbered their bills, nor paid them in course, according to the method of the Navy Office, and as they have been of late obliged to do.

"That they being no otherwise constituted than by a minute of the Treasury, and being themselves cashiers of the money appointed for that service, we humbly conceive they were not vested with sufficient authority to make any payments, or warrant their proceedings in the management of that affair. In which opinion we are confirmed by the patent bearing date the 15th of August, 1710, which we observe not only appointed them to act as Commissioners of Transports for the future, but has a retrospect to their proceedings before in the performance of that service, which are therein confirmed and made valid.

"That on the 22nd of June, 1704, when Mr. Nutin was appointed Treasurer of the Transports, there was a balance in their hands of the sum of 6,386*l.* 1*s.* 5*d.*¾ out of which they have paid to several persons 3,483*l.* 6*s.* 10*d.* but kept the remainder till the 7th of December, 1710, at which time they paid to Mr. Micklewaite, the present Treasurer, 2,129*l.* and 4¾*d.* and still retain 473*l.* 14*s.* 2¼*d.* on pretence of defraying the charge of passing their accounts. In excuse of their so long detaining the sum lately paid to Mr. Micklewaite, they alledge, that they knew Mr. Nutin and Mr. Mason, to be men of such circumstances and characters, as could not safely be entrusted with public money.

"We have nothing farther to observe on the accounts of Mr. Atkinson and Mr. Roop, but that they discharge themselves by payments on bills and otherwise, of the sum of 120,652*l.* 3*s.* 4*d.* whereof they have paid on imprests 11,523*l.* 1*s.* 6*d.* and that for these payments, they have laid some accounts before the auditors, but have passed as yet an account for one year only, notwithstanding it is now more than seven years since any money has been issued to them.

"Mr. Nutin was appointed Treasurer of the Transports, on the 22nd of June, 1704, and though he received, whilst in that employment, 108,118*l.* 16*s.* 10½*d.* he gave a security of 2,000*l.* only; he continued in this office till January, 1705, about which time he was dismissed for embezzling the public money. Mr. Nutin is not to be found, being, by order of the late Lord Treasurer, discharged out of prison; so that we can say nothing farther in relation to his accounts, except that those for one year have been laid before the auditors, but have not been prosecuted: Mr. Nutin having misapplied the public money, and it being thought necessary to put that office under a better regulation, the late Lord Treasurer ordered, that, for the future, the money, issued for that service, should be brought by the Treasurer into the office, to be locked up there, who should also transmit weekly certificates to the Treasury, signed by himself, and one of the Commissioners at least.

"Notwithstanding these Orders, and the complaints of the Commissioners to the late Lord Treasurer, and his repeated directions that they should be observed, Mr. Mason, who succeeded Mr. Nutin, on the 18th of January, 1705, neglected for some time to give any account of the money received, and brought none of it into the office to be locked up, till the 18th of January, 1706, and during the whole time of his continuance in that office kept some of the public money in his hands. In particular, he received at the Exchequer, on the 7th Nov. 1707, 35,778*l.* 18*s.* 9*d.* and kept the whole sum in his hands till the 1st Dec. following, at which time he brought into the office, 30,000*l.* in specie, and a bank receipt for several notes of one Newell, amounting to 5,403*l.* 10*s.* which was afterwards returned to Mr. Mason, Newell failing before the bank received the money. This was represented to the Treasury by the Commissioners, in a letter on the 9th Dec. 1707, notwithstanding which, Mr. Mason was continued in his office till the 14th of April following, and considerable sums were issued to him. He is accountable for 262,813*l.* 19*s.* 7*d.* of which he discharges himself by payments of the sum of 256,927*l.* 5*s.* 5*d.* Wherefore he has paid on imprests, 23,668*l.* 17*s.* 9*d.* He has had

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some accounts before the auditors, but none of them are yet passed.

"Mr. Mason was succeeded by Mr. Micklewaite, on the 19th of April, 1708, between which time and the 24th of June, 1711, we find there has been issued to him from the Exchequer, 476,341*l.* 6*s.* 11¼*d.* and he voluntarily chargeth himself with the sum of 4,010*l.* 7*s.* 2¼*d.* Mr. Micklewaite has laid his accounts before the auditors, to Michaelmas, 1710, which are ready for a declaration.

"We will conclude our Remarks on the Management of this part of the service, with observing that though the Commissioners have given certificates to the pay-master of the forces of the number of men shipped, that a deduction might be made for the victuals furnished in their passage to Flanders, and that there ought to have been deducted out of the pay of the soldiers, more than 1,300*l.* on that account, as was represented to the House last sessions, yet no part thereof has been paid over to that office.

"Though your Commissioners are not yet possessed of all the Accounts of the Navy, they think it their duty to represent some Articles of payments in the accounts laid before them by Mr. Walpole, late Treasurer of the Navy, which being made at a time when that service was clogged with great debts, seems very extraordinary, and such as they apprehend inconsistent with the rules of the navy.

"The first instance is, a payment of 2,000*l.* by Mr. Walpole, to the earl of Orford, out of money properly applicable to the use of the Navy, by virtue of a warrant from her majesty, bearing date the 13th of July, 1710, which was given to the said earl as her majesty's royal bounty.

"The other instance is of two payments, amounting to 1,452*l.* 14*s.* 8*d.* made also by Mr. Walpole, to Henry Priestman, esq. pursuant to a warrant from her majesty, dated July 7, 1710, which directs that 10,000*l.* per annum should be paid during her pleasure, out of such money as then was, or should be in Mr. Walpole's hands, for the service of the navy, both which are countersigned, Godolphin.

"How prejudicial the allowance of these Articles may be to the public, we presume not to affirm, but must acquaint you, that the Commissioners of the Navy, whose duty it is to inspect and sign the Treasurer's Account, say, that they never knew any such warrants heretofore, and that regularly all warrants should come from the Lords of the Treasury, or Lords of the Admiralty to them. We therefore humbly submit it to the House, whether these warrants ought to have been answered by the Treasurer of the Navy, though countersigned by the Lord Treasurer?

"We find an addition to the Establishment of the Navy of four senior captains, appointed to act as commanders in chief at Chatham, Plymouth, Portsmouth and Harwich, in the absence of flag-officers, by the name of super-intendants. This new office your Commissioners observe was erected at a time when some irregular promotions had been made in the fleet, and hath occasioned an increase of charge, without any advantage to the service, viz.

	£.	s.	d.
In the year 1709 - - - - - -	4,053	03	04
In the year 1710 - - - - - -	3,954	15	00
And in the year 1711 - - -	4,019	15	07
	12,027	13	11

"Here your Commissioners think it not improper to mention a debt of 115,014*l.* 10*s.* 2¼*d.* which appears to them by the return made from the Navy-Board, to have been many years due to England, from the States-General, for stores lent. We also find by the same return, that an account of this debt has been long since presented by the Commissioners of the Navy, to the Lords of the Admiralty, but without effect.

"All which is humbly submitted to the consideration of the House."

The Queen's Message respecting the English Episcopal Church at Rotterdam.] March 14. Mr. Secretary St. John delivered to the House the following Message, signed by her majesty:

"ANNE *R.*

"It having been certified to her majesty, by the earl of Strafford, her ambassador extraordinary and plenipotentiary to the States-General of the United Provinces, That the collection for building a Church at Rotterdam, wherein divine service is celebrated after the usage of the Church of England, for the benefit of the queen's subjects in that place, are not sufficient to compleat the charge of that work by about 2,500*l.* her majesty thinks fit earnestly to recommend to the House, the making a provision for the same."

The Commons' Address thereon.] Hereupon it was resolved, "That an humble Address be presented to her majesty, to return her majesty the most humble thanks of this House, for her most gracious Message, and to assure her majesty, that this House will enable her majesty to compleat the charge of the same."

Complaint against Mr. Buckley, for printing the Memorial of the States-General.] April 11. A complaint being made to the House of a printed Pamphlet, entitled "The Daily Courant Monday April 7, 1712," reflecting upon the proceedings of the House of Commons, the same was brought up to the table, and the title of the pretended Memorial there inserted, and a paragraph therein were read: After which it was resolved, "That the pretended Memorial printed in the said Daily Courant is a false, scandalous, and malicious Libel, reflecting upon the Resolutions of this House, and the Address of this House to her majesty thereupon, in breach of the privilege of this House." And a Committee was appointed to enquire who was the author, printer, and publisher of the said Libel, with power to send for persons, papers, and records. This day, Mr. Hungerford made his Report from that Committee, importing in substance, "That Samuel Buck-

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ley, the writer and printer of the Daily Courant, had owned the having translated and printing the said Memorial." Whereupon; the question was put, "That it appearing to this House, that Samuel Buckley is the printer of the pretended Memorial printed in the Daily Courant of the 7th instant (which hath been adjudged by this House to be a false, scandalous and malicious Libel, reflecting upon the Resolutions of this House, and the Address to her majesty thereupon, in breach of the privilege of this House) he, for the said offence, be taken into the custody of the Serjeant at Arms attending this House:" Upon which the House divided; but the same was carried in the affirmative by a majority of 188 voices against 57.

Resolutions relating to the Licentiousness of the Press.] Some members were so exasperated at the Dutch Memorial being published in a newspaper, that on the 12th the House being resolved into a grand committee, to consider of that part of the queen's Message to the House, the 17th of January last, which relates to the great License taken in publishing false and scandalous Libels, Sir Gilbert Dolben being the chairman, they came to these two Resolutions, 1." That the liberty taken in printing and publishing scandalous and impious Libels, creates divisions among her majesty's subjects, tends to the disturbance of the public peace, is highly prejudical to her majesty's government, and is occasioned for want of due regulating the Press. 2. That all printing-presses be registered, with the names of the owners, and places of abode; and that the author, printer, and publisher of every book set his name and place of abode thereto." These Resolutions were ordered to be reported the Tuesday following; but the said report was then put off till that day se'nnight, and afterwards further adjourned from time to time: Some members having, in the grand committee on ways and means, suggested a more effectual way for suppressing libels, viz. the laying a great duty on all news-papers and pamphlets.*

* " Among the matters of importance during this session, we may justly number the proceedings of the House of Commons with relation to the Press, since her majesty's Message to the House, of January the 17th, concludes with a paragraph, representing the great licences taken in publishing false and scandalous libels, such as are a reproach to any government; and recommending to them to find a remedy equal to the mischief. The meaning of these words in the message, seems to be confined to these weekly and daily papers and pamphlets, reflecting upon the persons and the management of the ministry. But the House of Commons in their Address, which answers this message, makes an addition of the blasphemies against God and religion; and it is certain, that nothing would be more for the honour of the legislature, than some effectual law for putting a stop to this universal mischief: but as the person [Mr. Secretary St. John, now lord viscount Bolingbroke], who advised the queen in that part of her message, had only then in his thoughts the redressing of the political and factious libels, I think he ought to have taken care, by his great credit in the House, to have proposed some ways by which that evil might be removed; the law for taxing single papers having produced a quite contrary effect, as was then foreseen by many persons, and hath since been found true by experience. For the adverse party, full of rage and leisure since their fall, unanimous in defence of their cause, employ a set of writers by subscription, who are well versed in all topics of defamation, and have a style and genius levelled to the generality of readers; while those who would draw their pens on the side of their prince and country, are discouraged by this tax, which exceeds both the intrinsic value of the materials and the work; a thing, if I be not mistaken, without example.—It must be acknowledged that the bad practices of printers have been such as to deserve the severest animadversions of the public; and it is to be wished the party-quarrels of the pen were always managed with decency and truth: but in the mean time, to open the mouths of our enemies and shut our own, is a turn of politics that wants a little to be explained. Perhaps the ministry now in possession, because they are in possession, may despise such trifles as this; and it is not to be denied, that acting as they do upon a national interest, they may seem to stand in less need of such supports, or may safely fling them down as no longer necessary. But if the leaders of the other party had proceeded by this maxim, their power would have been none at all, or of very short duration: and had not some active pens fallen in to improve the good dispositions of the people, upon the late change, and continued since to overthrow the falsehood, plentifully, and sometimes not unplausibly, scattered by the adversaries, I am very much in doubt, whether those at the helm would now have reason to be pleased with their success. A particular person may, with more safety, despise the opinion of the vulgar, because it does a wise man no real harm or good, but the administration a great deal; and whatever side has the sole management of the pen, will soon find hands enough to write down their enemies as low as they please. If the people had no other idea of those whom her majesty trusts in her greatest affairs, than what is conveyed by the passions of such as would compass sea and land for their destruction, what could they expect, but to be torn in pieces by the rage of the multitude? How necessary therefore was it, that the world should, from time to time, be undeceived by true representations of persons and facts, which have kept the kingdom steady to its interest, against all the attacks of

Representation in the name of the Commission of the Church of Scotland, against the Patronage Bill.] The Commons having on the 7th of April

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read the third time, and passed a Bill to restore Patrons to their ancient Rights in Scotland, and sent it up to the Lords for their concurrence, the agents for the Presbyterians of that part of Great Britain, resolved to follow it thither, and thereupon drew up the following Representation:

To the most honourable the Lords spiritual and temporal in Parliament assembled: The humble REPRESENTATION of William Carstaires, Thomas Blackwell, and Robert Baillie, ministers of the Church of Scotland, appointed by the Commission of the late General Assembly of the Church of Scotland, to take all proper and legal methods for preserving the rights and privileges of the aforesaid Church.

"It is with all humble duty and submission represented unto your lordships, that this depending bill seems to be contrary to the present constitution of our Church, so well secured by the treaty of Union, and solemnly ratified by acts of parliament in both kingdoms. That this may be more clear, it is to be observed, that, from the first reformation from popery, the church of Scotland hath always reckoned Patronages a grievance and burden, as is declared by the first and second books of discipline, published soon after the said Reformation, since which time they were still judged a grievance, till at length they came by law to be abolished.

"These Patronages having been restored with Episcopacy, in the year 1661 and 1662, did continue to the year 1690: That Episcopacy was abolished, and presbyterian church government again established; and though the act of parliament in 1690, resettling presbyterian church-government, was founded upon the act of parliament in 1592, which bears a relation unto Patronages, yet the said act of parliament in 1690, doth expressly except that part of the old act, and refer Patronages to be thereafter considered, which accordingly was considered in the same parliament in 1690, whereby it is plain, that the abolition of Patronages was made a part of our church-constitution, enacted by the act in 1690, and that this act in 1690, with all other acts relative thereto, being expressly ratified and for ever confirmed by the act for securing the Protestant Religion and Presbyterian government, and engrossed as an essential condition of the ratifications of the treaty of Union past in the parliaments of both kingdoms; the said act abolishing Patronages must be understood to be a part of our Presbyterian constitution, secured to us by the treaty of Union for ever.

"Yet it is to be particularly considered, that the same parliament in 1690 was so tender of the civil rights of Patrons, and so sincerely desirous only to restore the Church to its just and primitive liberty of calling ministers, in a way agreeable to the Word of God, that they only discharged the Patron's power of presenting ministers to vacant churches, but as to any thing of civil rights, did make the condition of Patrons better than before, not only by reserving unto them the right of disposal of vacant Stipends for pious uses within the Paroch, but also giving unto them the heretable rights of the Tythes, restricting the minister, who formerly had the said right to Stipends, much below the value of the said Tythes, notwithstanding which advantageous concession to the Patrons by the parliament, this bill takes back from the Church the power of presentation of ministers, without restoring the Tythes which formerly belonged to her, by which the Patrons come to enjoy both the purchase and the price.

"This being then the true account of our legal settlement as to this matter, it appears to be evident that the restitution of Patronages, as to the point of presentation, can only gratify a few, while on the other hand it must neces-

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a cunning and virulent faction. However, the mischiefs of the Press were too exorbitant to be cured, by such a remedy as a tax upon the smaller papers; and a bill for a more effectual regulation of it was brought into the House of Commons, but so late in the session, that there was no time to pass it; for there hath hitherto always appeared, an unwillingness to cramp overmuch the Liberty of the Press, whether from the inconveniences apprehended from doing too much, or too little; or whether the benefit proposed by each party to themselves, from the service of their writers, towards recovering or preserving of power, be thought to outweigh the disadvantages. However it came about, this affair was put off from one week to another, and the bill not brought into the house till the 8th of June. It was committed three days, and then heard of no more. In this bill there was a clause inserted, (whether industriously with a design to overthrow it) that the author's name, and place of abode, should be set to every printed book, pamphlet, or paper; which I believe no man, who hath the least regard to learning, would give his consent to: for, besides the objection to this clause from the practice of pious men, who, in publishing excellent writings for the service of religion, have chosen out of an humble christian spirit, to conceal their names; it is certain, that all persons of true genius or knowledge have an invincible modesty and suspicion of themselves, upon their first sending their thoughts into the world; and that those who are dull or superficial, void of all taste and judgment, have dispositions directly contrary: so that if this clause had made part of a law, there would have been an end, in all likelihood, of any valuable production for the future, either in wit or learning: and that insufferable race of stupid people, who are now every day loading the Press, would then reign alone, in time destroy our very first principles of reason, and introduce barbarity amongst us, which is already kept out with so much difficulty by so few hands." Swift's Four Last Years.

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sarily disoblige a far greater number, that are now freed of that imposition; and indeed it cannot but seem strange, that this bill should be so much insisted upon, when there are so many patrons, and those of the most considerable in Scotland, that are against such a restitution.

"It also appears, that Presbyteries must come under many difficulties and hardships, as to their compliance with this innovation, and that many contests, disorders and differences, will probably ensue betwixt patrons, presbyters, heretors and people, besides the known abuses wherewith Patronages have been attended even in their most settled condition; whereof many instances might be given; especially, that thereby a foundation was laid for Simoniacal Pactions betwixt patrons and those presented by them, and likewise ministers were imposed upon paroches by patrons who were utterly strangers to their circumstances, having neither property nor residence therein.

"It is therefore with all submission expected from your lordships' justice, and mature deliberation, that a bill, as we humbly conceive, so nearly affecting the late Union in one of its most fundamental and essential articles, respecting the preservation of the rights and privileges, which our Church at that time was possessed of by law, for the security of which the parliament of Scotland was so much concerned as not to allow their commissioners to make it any part of their Treaty, but reserved it as a thing unalterable by any judicature deriving its constitution from the said Treaty, shall not be approved by your lordships, especially while the nature of the Treaty itself shews it to be a reciprocal transaction betwixt the two nations.

W. CARSTARES.
T. BLACKWELL.
R. BAILEY."

The Patronage Bill passes both Houses.] It is observable, that this Representation was first printed and presented with this title, 'To the most honourable the peers of Great-Britain;' but an exception being taken to it, because it seemed either to imply that the Bishops were Peers upon the same foot with the temporal lords, or to exclude them from being concerned in the Address; neither of which would be admitted; the said Representation was thereupon withdrawn, and new printed and presented as above. It is also to be observed, that notwithstanding the said mistake, which some were apt enough to construe as an intended slight on Episcopacy, yet five of the Bishops who entertained more charitable thoughts, and were apprehensive of the fatal consequences of the Bill for restoring Lay Patronages, gave their votes against it. But the majority of the House of Lords were of another opinion; and so the Bill was on the 14th of April sent back to the Commons with a small Amendment to which the Commons afterwards agreed.

The Grant-Bill tacked to the Lottery-Bill.] April 21. The Commons read a second time a Bill 'To appoint Commissioners to examine 'the Value of all lands, and other interests 'granted by the crown since the 13th day of 'February 1688-9, and upon what consideration such Grants were made,' and committed the same to the committee of the whole House, to whom the Bill 'To raise money by 'way of a Lottery,' was committed. It appearing by this, that the House designed to tack these two Bills notwithstanding a former Resolution of the House of Lords against such a practice; which made the court apprehensive, that the same might occasion unhappy differences between both Houses; some members of the House of Commons endeavoured to prevent it, but the majority were of a contrary opinion.

The Grant-Bill untacked from the Lottery-Bill.] May 6. It was hinted before, that some members of the House of Commons, did, on the 21st of April, endeavour to prevent the tacking of the Grant-Bill to the Lottery-Bill; but though they then failed therein, yet (as the report was then current) upon a promise made by a great minister, to several leading men, that he would use all his interest to procure the passing of the first of these Bills single in the House of Lords, the Commons resolved, "That the Committee of the whole House be discharged from the instruction to alter and make these two into one;" which was carried by a majority of 300 voices against 81.

The Grant-Bill passes the Commons.] May 10. The Grant-Bill, with the amendments made to it, was ordered to be engrossed; after which the Commons resolved, 'That the Commissioners for putting in execution the trusts and powers in the said Bill, be seven. 2. That no person should be a Commissioner who had any office of profit, or was accountable to her majesty, or has, or holds, under any grant from the crown, since the 13th of February 1688-9. 3. That the Commissioners might be members of the House. 4. That they be chosen by balloting:" which, according to order, was done on Tuesday, the 13th of May, and the majority of voices fell upon John Hind Cotton, esq. the hon. James Murray, esq. the right hon. Henry viscount Down, Charles Cholmondley, esq. James Bulteel, esq. W. Levinz, esq. and sir Edmund Bacon, bart. The next day the Bill was passed and sent to the Lords.

The Grant Bill dropped in the Lords.] The Bill made all its steps through the House of Lords, to the last, with a small majority of one or two. On the third reading of the Bill, a warm debate arose: in which,

The Duke of *Argyle* said, "That, if for the ease of the public it was found proper to resume the Grants of the crown, he would readily give his vote for it, provided they would go so far back, as the Restoration of king Charles the second. But he could never agree to limit the Bill to Grants of king William, because such an act would be injurious to the memory of the deliverer of Great-Britain, and all Europe; which ought to be had in reverence by all honest men."

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The Earl of *Wharton*, the lord Cowper, and lord Halifax spoke, with great force and eloquence, against the partial distinction between Grants since the Revolution, and those before it; adding, that such a distinction gave too much credit to a ministry, who by the passing of the Bill would have the means in their hands to ruin and oppress those, who had not the good luck to please them.

The Earl of *Nottingham*, who had been absent the first two days, spoke on this occasion, and said, "He always thought those Grants were too large and very unseasonably made; but he thought there ought to be an equal way of proceeding in that matter; they ought either to resume them all, or to bring all concerned in them to an equal composition: he therefore could not approve of this Bill, which, by a very clear consequence, would put it in the power of a fellow-subject, to resume or to cover Grants, at his pleasure; and so it would put the persons, concerned in the Grants, into too great a dependance on him."

The *Lord Treasurer* answered, "That no one had reason to be alarmed at the Bill, since the intent of it was only to examine the value of the Grants made by king William, and upon what considerations they were given; but that as it was presumed, those, who enjoyed them had rendered very signal service to their country, so it was not to be doubted, but the parliament would confirm the same."

The Earl of *Wharton* replied, "That it was also to be presumed, that those, who enjoyed the Grants of king Charles the second, and king James the second, might have likewise done important service to the nation: wherefore it would be very proper to look into the motives of all those grants, in order to confirm them to those who had deserved them."

The Earl of *Oxford* said, "That he had been informed, that the Commons had no design absolutely to resume the Grants of king William, but only to make the possessors pay the value of four or five years rent, for which they should have the Grants confirmed to them for ever." To which,

The Earl of *Wharton* again replied, "That he would not call in question what a lord of such probity and sincerity had advanced; but that the resumption of all the Grants of Ireland sufficiently shewed, that the Commons had not been content with a part."

Several other speeches, that were made on both sides, prolonged the debate till between six and seven in the evening, when the question being put, that the bill do pass, it appeared upon the gathering of the votes, that there were 78 voices on each side, 53 present, and 25 proxies for the affirmative; and 52 present, and 26 proxies for the negative; so the Votes being equal, by the rule of the house, the negative carried it, to the great disappointment of the enemies of the Revolution. It was observed that the loss of this Bill was in a great measure owing to the vigilance of the late duke of Portland. He being informed, that the lord Colepepper had sent his proxy to the earl of Sunderland, who by reason of his indisposition could not produce it, immediately dispatched an express to the lord Colepepper, and he sent his proxy to another lord time enough to create part of the negative. On the other hand, many were of opinion, that had not the duke of Buckingham and the earl of Strafford absented themselves from the house, the Bill had certainly passed.*

"* Upon an occasion offered about this time, some persons, out of distrust to the Treasurer, endeavoured to obtain a point, which could not have been carried without putting all into confusion. A bill was brought into the House of Commons, appointing Commissioners to examine into the value of all lands, and other interests granted by the crown since the 13th of February, 1688, and upon what considerations such Grants had been made. The united country-interest in the House was extremely set upon passing this Bill. They had conceived an opinion from former precedents, that the court would certainly oppose all steps towards a resumption of Grants; and those who were apprehensive that the Treasurer inclined the same way, proposed the bill should be tacked to another, for raising a fund by duties upon soap and paper; which hath been always imputed whether justly or no, as a favourite expedient of those called the Tory party. At the same time it was very well known that the House of Lords had made a fixed and unanimous Resolution against giving their concurrence to the passing such united bills: so that the consequences of this project must have been to bring the ministry under difficulties, to stop the necessary supplies and endanger the good correspondence between both Houses; notwithstanding all which the majority carried it for a tack; and the committee was instructed accordingly to make the two Bills into one, whereby the worst that could happen would have followed, if the Treasurer had not convinced the warm leaders in this affair, by undeniable reasons, that the means they were using would certainly disappoint the end; that neither himself, nor any other of the queen's servants were at all against this enquiry; and he promised his utmost credit to help forward the Bill in the House of Lords. He prevailed at last to have it sent up single; but their lordships gave it another kind of reception. Those who were of the side opposite to the court, withstood it to a man, as in a party case: among the rest some very personally concerned, and others by friends and relations which they supposed a sufficient excuse to be absent, or dissent. Even those whose grants were antecedent to this intended inspection began to be alarmed as men, whose neighbours houses are on fire. A shew of zeal for the late king's honour, occasioned many reflections upon the date of this enquiry, which was to commence with his reign: and the earl of Nottingham, who had

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Debate on the State of the Campaign.] May 22. The queen came to the house of peers, and gave the royal assent to the Money-Bills and others. As the earl of Strafford was now in London, it was expected, the queen would have laid before the parliament a state of the Negociations of Peace which had been carrying on at the Hague. But, some points not being yet settled between the British and French courts, she did not think fit to make a speech to both houses. However, the Speaker, at presenting the Lottery-bill, said, in his compliment to the queen, "Your faithful Commons are in hopes, that what they have so chearfully given, for your majesty's occasions, will enable your majesty to put an end to the present war by safe and honourable peace." There being no account come of any peace, as soon as the Commons were returned to their House, Mr. Benson, Chancellor of the Exchequer, afterwards lord Bingley, moved, that the call of the House (which had been several times put off) might be adjourned to the 4th of June, when he did not doubt but the queen would lay before them the result of the present negociations.

Mr. *Hampden* complained, saying, "Notwithstanding all the promises given from time to time to the Commons, we have an unactive and lazy campaign, and a trifling negociation of peace; so that we are amused by our ministers at home, and tricked by our enemies abroad."

Mr. Secretary *St. John* had too great a share in the management of affairs not to resent these insinuations; and said with some emotion, "That they highly reflected on her majesty, and her ministers. But though some members had been sent to the Tower for less

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now flung away the mask which he lately pulled off, like one who had no other view but that of vengeance against the queen and her friends, acted consistently enough with his design, by voting as a lord against the Bill, after he had directed his son in the House of Commons to vote for the tack.

"Thus miscarried this popular Bill for appointing Commissioners into Royal Grants; but whether those chiefly concerned did rightly consult their own interest hath been made a question, which perhaps time will resolve. It was agreed that the queen by her own authority, might have issued out a commission for such an enquiry, and every body believed that the intention of the parliament was only to tax the grants with about three years purchase, and at the same time establish the proprietors in possession of the remainder for ever; so that, upon the whole, the grantees would have been great gainers by such an act, since the titles of those lands, as they stood then, were hardly of half value with others either for sale or settlement. Besides the examples of the Irish forfeitures might have taught these precarious owners, that when the House of Commons hath once engaged in a pursuit which they think is right, although it be stopped or suspended for a while, they will be sure to renew it upon every opportunity that offers, and seldom fail of success: for instance, if the resumption should happen to be made part of a supply, which can be easily done without the objection of a tack, the grantees might possibly then have much harder conditions given them; and I do not see how they could prevent it. Whether the resuming of Royal Grants be consistent with good policy or justice would be too long a disquisition: besides, the profusion of kings is not like to be a grievance for the future, because there have been laws since made to provide against that evil, or indeed rather because the crown has nothing left to give away. But the objection made against the date of the intended enquiry was invidious and trifling; for king James 2, made very few grants: he was a better manager, and squandering was none of his faults; whereas the late king, who came over here a perfect stranger to our laws and to our people, regardless of posterity, wherein he was not likely to survive, thought he could no way better strengthen a new title than by purchasing friends at the expence of every thing which was in his power to part with.

"The reasonableness of uniting to a Money Bill one of a different nature, which is usually called tacking, hath been likewise much debated and will admit of argument enough. In antient times when a parliament was held, the Commons first proposed their grievances to be redressed, and then gave their aids; so that it was a perfect bargain between the king and the subject. This fully answered the ends of tacking. Aids were then demanded upon occasions which would hardly pass at present; such for instance, as those for making the king's son a knight, marrying his eldest daughter, and some others of the like sort. Most of the money went into the king's coffers for his private use; neither was he accountable for any part of it. Hence arose the form of the king's thanking his subjects for their benevolence, when any subsidies, tenths, or fifteenths, were given him: but the supplies now granted are of another nature and cannot be properly called a particular benefit to the crown, because they are all appropriated to their several uses: so that when the House of Commons tack to a Money-Bill what is foreign and hard to be digested, if it be not passed, they put themselves and their country in as great difficulties as the prince. On the other side, there have been several regulations made through the course of time, in parliamentary proceedings; among which it is grown a rule, that a bill once rejected shall not be brought up again the same session; whereby the Commons seem to have lost the advantage of purchasing a redress of their grievances by granting supplies, which upon some emergencies, hath put them upon this expedient of tacking: so that there is more to be said on each side of the case, than is convenient for me to trouble the reader or myself in deducing." Swift's Four Last Years

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offences, and that he, who spoke last, might be fond of that honour, yet he hoped the House would be of another opinion."

Sir *Richard Onslow* replied, "That to suppose her majesty, or her ministers to have any influence on the deliberations of that House, was injurious to her majesty, and a violation of the privileges of that House."

In which he was seconded by Mr. Lechmere. But the debate went no further, in consideration, as the friends of the prevailing party suggested, that, the session drawing to an end, the commitment of a member at that time would rather be a pride than a mortification to him. And so, according to the motion of the Chancellor of the Exchequer, the call of the House was put off till the 4th of June.

May 28. Mr. Pulteney moved, That an humble Address be presented to her majesty, "That her faithful Commons are justly alarmed at the intelligences received from abroad, that her general in Flanders has declined to act offensively against France, in concurrence with her Allies; and being under the deepest concern for the dangerous consequences which must arise from thence to the common cause, do with all humility beseech her majesty, that speedy instructions may be given to her General in Flanders, to prosecute the War with the utmost vigour, in conjunction with her Allies, as the best means to obtain a safe and honourable peace for her majesty, and all of them; and to quiet the minds of the people, who cannot but be extremely apprehensive of the fatal consequences of such a division." But after a debate, in which Mr. Secretary gave assurances much to the same purpose as the Lord High-Treasurer had done in the House of Lords, the motion being formed into question, and the question put, it was carried in the negative, by a majority of 203 voices against 73.

Resolution for putting an entire Confidence in the Queen.] After which it was resolved, "That this House hath an entire confidence in her majesty's most gracious promise, to communicate to her parliament the terms of the Peace before the same shall be concluded; and that they will support her majesty in obtaining an honourable and safe Peace, against all such persons, either at home or abroad, who have endeavoured and shall endeavour to obstruct the same: And that the said Resolution be laid before her majesty by the whole House."

The Queen's Answer thereto.] The said Resolution being accordingly laid before the queen, on the 30th, her majesty was pleased to return this Answer:

"Gentlemen, I thank you most heartily for this Resolution, which is dutiful to me, honest to your country, and very seasonable at this time, when so many artifices are used to obstruct a good Peace, or to force one disadvantageous to Britain."

Debate in the Lords on the Duke of Ormond's declining to fight.] May 27. The Lord Halifax acquainted the House of Peers, "That he had matters of great importance to lay before them;" and desired, that the members might be summoned to attend the service of the House the next day. The Peers being in a full House on the 28th of May, the lord Halifax made a speech, wherein he first took notice of the strange declaration made in the army by the duke of Ormond: then shewed the ill consequences of such a proceeding, and the necessity of carrying on the war with vigour; and concluded with a motion for an Address, "humbly to desire her majesty to lay before the House the Orders she had sent to the General, and to order him to act offensively in concert with the Allies." When he had done speaking, some objections were raised as to the matter of fact; but though the lord Halifax did not want proofs, having among others, a copy of prince Eugene's Letter, yet he did not think proper to produce it; and some other Whig lords contented themselves with pressing those in the ministry to acquaint the House, Whether any orders of restraint had been sent to the duke of Ormond?

The *Lord Treasurer*, who was most concerned in this affair, answered, "That they, who had the honour to serve the queen, could not reveal the orders she gave to her General, without a particular direction from her majesty; and that, in his opinion, those orders were not fit to be divulged. That however, he would adventure to say, that, if the duke of Ormond had refused to act offensively, he did not doubt, but he had followed his instructions: and it was prudence not to hazard a battle upon the point of concluding a good peace, especially considering they had to deal with an enemy so apt to break his word."*

The Earl of *Wharton* said, "He was extremely glad to find that noble lord so candid, as to acknowledge the insincerity of France: But that, in his opinion, this was a strong reason for keeping no measures with such an enemy, but rather for pushing him with the utmost vigour, till he was reduced to the necessity of dealing honestly."

The *Lord Treasurer* replied, "Though the duke of Ormond might have refused to hazard a general action, yet he could be positive, he would not decline joining with the Allies in a siege, orders having been sent him for that purpose."

* "May 31. I believe the news of the duke of Ormond, producing letters in the Council of War, with orders not to fight, will surprize you in Ireland. Lord Treasurer said in the House of Lords, that in a few days the treaty of peace should be laid before them; and our court thought it wrong to hazard a battle, and sacrifice many lives in such a juncture. If the peace holds, all will do well, otherwise I know not how we shall weather it. And it was reckoned as a wrong step in politics for lord Treasurer to open himself so much. The Secretary would not go so far to satisfy the Whigs in the House of Commons; but these all went swimmingly." Swift's Journal.

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The Duke of *Marlborough* said, "He did not know how to reconcile the orders, not to hazard a battle, and to join in a siege, to the rules of war; since it was impossible to make a siege, without either hazarding a battle, in case the enemy attempted to relieve the place, or shamefully raising the siege."

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offences, and that he, who spoke last, might be fond of that honour, yet he hoped the House would be of another opinion."

Sir *Richard Onslow* replied, "That to suppose her majesty, or her ministers to have any influence on the deliberations of that House, was injurious to her majesty, and a violation of the privileges of that House."

In which he was seconded by Mr. Lechmere. But the debate went no further, in consideration, as the friends of the prevailing party suggested, that, the session drawing to an end, the commitment of a member at that time would rather be a pride than a mortification to him. And so, according to the motion of the Chancellor of the Exchequer, the call of the House was put off till the 4th of June.

May 28. Mr. Pulteney moved, That an humble Address be presented to her majesty, "That her faithful Commons are justly alarmed at the intelligences received from abroad, that her general in Flanders has declined to act offensively against France, in concurrence with her Allies; and being under the deepest concern for the dangerous consequences which must arise from thence to the common cause, do with all humility beseech her majesty, that speedy instructions may be given to her General in Flanders, to prosecute the War with the utmost vigour, in conjunction with her Allies, as the best means to obtain a safe and honourable peace for her majesty, and all of them; and to quiet the minds of the people, who cannot but be extremely apprehensive of the fatal consequences of such a division." But after a debate, in which Mr. Secretary gave assurances much to the same purpose as the Lord High-Treasurer had done in the House of Lords, the motion being formed into question, and the question put, it was carried in the negative, by a majority of 203 voices against 73.

Resolution for putting an entire Confidence in the Queen.] After which it was resolved, "That this House hath an entire confidence in her majesty's most gracious promise, to communicate to her parliament the terms of the Peace before the same shall be concluded; and that they will support her majesty in obtaining an honourable and safe Peace, against all such persons, either at home or abroad, who have endeavoured and shall endeavour to obstruct the same: And that the said Resolution be laid before her majesty by the whole House."

The Queen's Answer thereto.] The said Resolution being accordingly laid before the queen, on the 30th, her majesty was pleased to return this Answer:

"Gentlemen, I thank you most heartily for this Resolution, which is dutiful to me, honest to your country, and very seasonable at this time, when so many artifices are used to obstruct a good Peace, or to force one disadvantageous to Britain."

Debate in the Lords on the Duke of Ormond's declining to fight.] May 27. The Lord Halifax acquainted the House of Peers, "That he had matters of great importance to lay before them;" and desired, that the members might be summoned to attend the service of the House the next day. The Peers being in a full House on the 28th of May, the lord Halifax made a speech, wherein he first took notice of the strange declaration made in the army by the duke of Ormond: then shewed the ill consequences of such a proceeding, and the necessity of carrying on the war with vigour; and concluded with a motion for an Address, "humbly to desire her majesty to lay before the House the Orders she had sent to the General, and to order him to act offensively in concert with the Allies." When he had done speaking, some objections were raised as to the matter of fact; but though the lord Halifax did not want proofs, having among others, a copy of prince Eugene's Letter, yet he did not think proper to produce it; and some other Whig lords contented themselves with pressing those in the ministry to acquaint the House, Whether any orders of restraint had been sent to the duke of Ormond?

The *Lord Treasurer*, who was most concerned in this affair, answered, "That they, who had the honour to serve the queen, could not reveal the orders she gave to her General, without a particular direction from her majesty; and that, in his opinion, those orders were not fit to be divulged. That however, he would adventure to say, that, if the duke of Ormond had refused to act offensively, he did not doubt, but he had followed his instructions: and it was prudence not to hazard a battle upon the point of concluding a good peace, especially considering they had to deal with an enemy so apt to break his word."*

The Earl of *Wharton* said, "He was extremely glad to find that noble lord so candid, as to acknowledge the insincerity of France: But that, in his opinion, this was a strong reason for keeping no measures with such an enemy, but rather for pushing him with the utmost vigour, till he was reduced to the necessity of dealing honestly."

The *Lord Treasurer* replied, "Though the duke of Ormond might have refused to hazard a general action, yet he could be positive, he would not decline joining with the Allies in a siege, orders having been sent him for that purpose."

* "May 31. I believe the news of the duke of Ormond, producing letters in the Council of War, with orders not to fight, will surprize you in Ireland. Lord Treasurer said in the House of Lords, that in a few days the treaty of peace should be laid before them; and our court thought it wrong to hazard a battle, and sacrifice many lives in such a juncture. If the peace holds, all will do well, otherwise I know not how we shall weather it. And it was reckoned as a wrong step in politics for lord Treasurer to open himself so much. The Secretary would not go so far to satisfy the Whigs in the House of Commons; but these all went swimmingly." Swift's Journal.

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Strafford suggested, "That, before the house entered upon the negociation of Utrecht, they would do well to examine into those of the Hague and Gertruydenburg; upon which he would communicate to them two observations he had made during his residence in Holland: First, that, at the Hague the French ministers conferred only with the pensionary, who, having made his report to the States-general, communicated no more of it to the ministers of the allies, than what was judged proper to let them know; so that the Dutch were absolute masters of the secret of that negociation, as they were afterwards of that of Gertruydenburg. Secondly, that the States-general had consented to give Naples and Sicily to king Philip; which shewed even at that time, that the recovery of the whole monarchy of Spain was looked upon as impracticable." He said he had his information from one of the two, who had been employed in those conferences; by which it was plain that he meant Buys. He concluded with a motion for addressing her majesty, "That she would be pleased to cause the Papers relating to the Negociations of the Hague and Gertruydenburg to be laid before the House;" which was carried without dividing. But nothing followed upon this; for it was said to be designed only to amuse the House.

Protest against the Orders for not fighting.] It was observed before, That seven Lords protested against the Orders produced by the duke of Ormond, not to act offensively against the French. Not many days after, the said Protest was published in print, containing in substance, "1. That their lordships conceived, such an order as was proposed in the question, to be absolutely necessary, because they were convinced that the duke of Ormond lay under some order of restraint from acting offensively, not only from the accounts which were public both here and in Holland, of his declaring it to prince Eugene and to the deputies of the States, at their late consultation, when both prince Eugene and those deputies earnestly pressed him to join in attacking the French army, which was then known to be much inferior to that of the allies, both in the number and condition of their troops, but also that nothing of this whole matter was denied by those lords, who had the means of knowing these facts, as undoubtedly would have been without scruple, had not the said facts been true; since no scruple was made of acquainting the house with a subsequent order very lately sent to the duke of Ormond, allowing him to join in a siege: which was a further evidence that he had before some order of restraint, for otherwise this last order would be unnecessary and absurd; it being a general, constant, and standing instruction to every Commander in Chief, by land or sea, to do his utmost endeavour to annoy the enemy. And it is manifest by this last order, that even in the opinion of the ministers, it was expedient to take off this restraint, to some degree; and the leaving the duke of Ormond still under a restraint from giving battle to the French, seemed most unaccountable, and inconsistent with the liberty indulged to him of joining in a siege, and rendered it altogether useless: for no place, when taken, could be of such advantage to the allies as Cambray, which opens a free passage for our army into the heart of France; and it was impossible to besiege that place, without dislodging the French from their encampment; and this was also impossible, if the French would keep their ground. Other attempts seemed to be of little use, but might serve to give the French time, which they did not want skill to improve.—2dly, That they conceived it would be derogatory to her majesty's honour, to public faith, and that justice which was due to her majesty's allies; and that it was a sort of imposing upon our allies a cessation of arms, without their consent, and in the most prejudicial manner, because they were not so much as acquainted with it, and so might have been led into great difficulties; besides that, it frustrated all essential advantages against the common enemy, which might be of fatal consequence to this nation and all Europe.—3dly, Because it was acknowledged that a General Peace was not concluded, as indeed it was very unlikely it should be, there having been no answer in writing given by the French to the specific demands of the allies, though the same were delivered to the French three months ago: and it was further declared, there was no Separate Peace, nay, that such a Peace would be foolish, knavish, and villainous. And, therefore, while we were in war, and having no security of a Peace, their lordships conceived that such an order of restraint was a plain neglect of all those happy opportunities which Providence might, and lately did, put into our hands, of subduing our enemy, and forcing him to a just and honourable Peace. And surely it was imprudent and dangerous to rely on the promises of France, which were so far from being any security that even a Peace would not be safe, in their opinion, unless it be such as gave so full satisfaction to the allies, that they should be willing to join with us in a mutual Guaranty of it.—That her majesty having with great wisdom declared to this parliament, That the best means of obtaining a good Peace was to make early preparations for War, and a vigorous prosecution of it: and since the parliament had with great duty and deference to her majesty, and a just zeal for the interests of their country, and of Europe, given very great supplies for that purpose. Their lordships conceived that such an order of restraint, being very different from that declaration of her majesty, must be the effect of very ill advice; by which the parliament's good intention would be defeated, and all those heavy loads of taxes, which they have for so good purposes chearfully given, rendered fruitless and unnecessary; and might, in conclusion, after having thus trifled away our wealth and time, bring us into the necessity of accepting such a Peace, as it should please

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an insolent and domineering enemy to give us."

This Protest was also published abroad in French and other languages; and the names of the peers who signed it were the dukes of Devonshire, Marlborough, Rutland, Bolton, Montagu, and Somerset; the marquis of Dorchester; the earls of Wharton, Derby, Nottingham, Bridgewater, Godolphin, Carlisle, Orford, and Scarborough; the lord viscount Townshend: the lords bishops of Oxford, Sarum, Bangor, and St. Asaph; and the lords Rockingham, Cowper, Haversham, Mohun, and Halifax.

Bill to restrain the Licentiousness of the Press.] June 2. Sir Gilbert Dolben reported from the committee of the whole house, to whom it was referred to consider of that part of her majesty's Message to this house, the 17th of January last, which relates to the great Licence taken in publishing false and scandalous Libels, the Resolutions which they had directed him to report to the house: viz.

"1. That the great liberty taken in printing and publishing false, scandalous, and impious Libels, creates division among her majesty's subjects, tends to the disturbance of the public peace, to the encrease of immorality, prophaneness, and irreligion, and is highly prejudicial to her majesty, and her government. 2. That the want of a due regulation of the Press, is a great occasion of the said mischief. 3. That all Printing-Presses be registered with the names of the owners, and their places of abode. 4. That to every book, pamphlet, and paper which shall be printed, there be set the Name and the place of abode of the Author, Printer and Publisher thereof. 5. That no Bookseller, or other person, shall sell or disperse any book, pamphlet, or paper, to which the name and place of abode of the Author, Printer, and Publisher shall not be set." The Commons ordered a Bill to be brought in upon the said Resolutions.

The Queen's Speech containing the Plan of the Peace.] June 6. The queen came to the House of Peers with the usual solemnity, and having given the royal assent to several bills, her majesty made the following Speech to both Houses:

"My Lords and Gentlemen,

"The making peace and war is the undoubted prerogative of the crown; yet such is the confidence I place in you, that, at the opening of this session, I acquainted you, that a negociation for a General Peace was begun, and afterwards, by messages, I promised to communicate to you the terms of peace, before the same should be concluded.—In pursuance of that promise, I now come to let you know, upon what terms a General Peace may be made.—I need not mention the difficulties which arise from the very nature of this affair, and it is but too apparent, that these difficulties might have been encreased by other obstructions, artfully contrived to hinder this great and good work.—Nothing however has moved me from steadily pursuing, in the first place, the true interest of my own kingdoms, and I have not omitted any thing which might procure to all our allies what is due to them by treaties, and what is necessary for their security.—The assuring of the Protestant Succession, as by law established, in the house of Hanover, to these kingdoms, being what I have nearest at heart, particular care is taken, not only to have that acknowledged in the strongest terms, but to have an additional security, by the removal of that person out of the dominions of France, who has pretended to disturb this settlement.—The apprehension that Spain and the West Indies might be united to France, was the chief inducement to begin this war, and the effectual preventing of such an union, was the principle I laid down at the commencement of this treaty.—Former examples and the late negociations sufficiently shew, how difficult it is to find means to accomplish this work. I would not content myself with such as are speculative, or depend on treaties only; I insisted on what is solid, and to have at hand the power of executing what should be agreed.—I can therefore now tell you, That France at last is brought to offer, that the duke of Anjou shall, for himself, and his descendants, renounce for ever all claim to the crown of France. And that this important article may be exposed to no hazard, the performance is to accompany the promise.—At the same time, the succession to the crown of France is to be declared, after the death of the present Dauphin and his sons, to be in the duke of Berry and his sons, in the duke of Orleans and his sons, and so on to the rest of the house of Bourbon.—As to Spain and the Indies, the succession to those dominions, after the duke of Anjou and his children, is to descend to such a prince as shall be agreed upon at the treaty, for ever excluding the rest of the house of Bourbon.—For confirming the renunciations and settlements before mentioned, it is further offered, That they shall be ratified in the most strong and solemn manner, both in France and Spain; and that those kingdoms, as well as all the other powers engaged in the present war, shall be guarantees to the same.—The nature of this proposal is such, that it executeth itself. The interest of Spain is to support it, and in France, the persons to whom that succession is to belong, will be ready and powerful enough to vindicate their own right. France and Spain are now more effectually divided than ever. And thus, by the blessing of God, will a real balance of power be fixed in Europe, and remain liable to as few accidents as human affairs can be exempted from.—A Treaty of Commerce between these kingdoms and France has been entered upon, but the excessive duties laid on some goods, and the prohibitions of others, make it impossible to finish this work so soon as it were to be desired. Care is however taken to establish a method of settling this matter, and in the mean time provision is made, that the same privileges and advantages as shall be granted to any other nation by France, shall be granted in like manner

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to us.—The division of the island of St. Christopher between us and the French, having been the cause of great inconvenience and damage to my subjects, I have demanded to have an absolute cession made to me of that whole island; and France agrees to this demand.—Our interest is so deeply concerned in the trade of North America, that I have used my utmost endeavours to adjust that article in the most beneficial manner. France consents to restore to us the whole bay and streights of Hudson; to deliver up the island of Newfoundland, with Placentia, and to make an absolute cession of Annapolis, with the rest of Nova Scotia, or Acadia.—The safety of our home trade will be better provided for by the demolition of Dunkirk.—Our Mediterranean Trade, and the British interest and influence in those parts, will be secured by the possession of Gibraltar and Port Mahon, with the whole island of Minorca, which are offered to remain in my hands.—The trade to Spain and to the West Indies, may in general be settled, as it was in the time of the late king of Spain, Charles the second, and a particular provision be made, That all advantages, rights or privileges, which have been granted, or which may hereafter be granted by Spain to any other nation shall be in like manner granted to the subjects of Great-Britain.—But the part which we have borne in prosecution of this war entitling us to some distinction in the terms of peace, I have insisted and obtained, that the assiento or contract for furnishing the Spanish West Indies with Negroes, shall be made with us for the term of 30 years, in the manner as it has been enjoy'd by the French for these 10 years past.—I have not taken upon me to determine the interests of our confederates; these must be adjusted in the congress at Utrecht, where my best endeavours shall be employed as they have hitherto been, to procure to every one of them all justice and reasonable satisfaction. In the mean time, I think it proper to acquaint you, that France offers to make the Rhine the Barrier to the Empire; to yield Brisac, the fort of Kehl, and Landau, and to raze all the fortresses, both on the other side of the Rhine, and in that river.—As to the Protestant interest in Germany, there will be, on the part of France, no objection to the resettling thereof on the foot of the treaty of Westphalia.—The Spanish Low-countries may go to his imperial majesty; the kingdoms of Naples and Sardinia, the duchy of Milan, and the places belonging to Spain on the coast of Tuscany, may likewise be yielded to the emperor by the Treaty of Peace.—As to the kingdom of Sicily, though there remains no dispute concerning the Cession of it by the duke of Anjou, yet the disposition thereof is not yet determined. The interests of the States-General, with respect to commerce, are agreed to, as they have been demanded by their own ministers, with the exception only of some very few species of merchandize, and the entire Barrier, as demanded by the States in 1709 from France, except two or three places at most.—As to these exceptions several expedients have been proposed, and I make no doubt but this Barrier may be so settled, as to render that republic perfectly secure against any enterprize on the part of France, which is the foundation of all my engagements upon this head with the States.—The demands of Portugal depending on the disposition of Spain, and that Article having been long in dispute, it has not been yet possible to make any considerable progress therein; but my plenipotentiaries will now have an opportunity to assist that king in his pretensions.—Those of the king of Prussia are such as I hope will admit of little difficulty on the part of France, and my utmost endeavours shall not be wanting to procure all I am able to so good an ally.—The difference between the Barrier demanded for the duke of Savoy in 1709 and the offers now made by France, is very inconsiderable; but, that prince having so signally distinguished himself in the service of the common cause, I am endeavouring to procure for him still further advantages.—France has consented, that the Elector Palatine shall continue his present rank among the electors, and remain in possession of the Upper Palatinate.—The electoral dignity is likewise acknowledged in the House of Hanover, according to the Article inserted, at that prince's desire, in my demands.—And as to the rest of the allies, I make no doubt of being able to secure their several interests.

"My Lords and Gentlemen,

"I have now communicated to you, not only the terms of peace, which may, by the future treaty, be obtained for my own subjects: but likewise the proposals of France for satisfying our allies.—The former are such as I have reason to expect, to make my people some amends for that great and unequal burden which they have lain under through the whole course of this war: and I am willing to hope, that none of our confederates, and especially those to whom so great accessions of dominion and power are to accrue by this peace, will envy Britain her share in the glory and advantage of it.—The latter are not yet so perfectly adjusted, as a little more time might have rendered them: but the season of the year making it necessary to put an end to this session, I resolved no longer to defer communicating these matters to you.—I can make no doubt but you are all fully persuaded, that nothing will be neglected, on my part, in the progress of this negociation, to bring the Peace to a happy and speedy issue: and I depend on your entire confidence in me, and your chearful concurrence with me." *

* "This Speech occasioned a general surprize; so that the public funds, which upon, the expectation of better conditions of peace, had that morning risen four or five per cent, fell immediately to their former value. It was now easy to discern, what reasons induced some persons to keep secret the result of the negocia-

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The Commons' Address of Thanks.] The Commons being returned to their House, and one or two members opening their mouths, to propose the taking the important matters mentioned in her majesty's Speech, into consideration, they were presently stopped by a general cry for an Address of thanks; Whereupon, the following Address was agreed to *nem. con.*

"Most gracious Sovereign:

"We your majesty's most dutiful and loyal subjects the Commons of Great-Britain in parliament assembled, beg leave most humby to acknowledge your majesty's great condescention, in communicating to us the terms upon which a General Peace may be made. Our hearts are full of gratitude for what your majesty has already done, and we want words to express the satisfaction, with which we have received all that your majesty has been pleased to impart to your Commons. We have an entire confidence in your majesty, that you will stendily pursue the true interest of your own kingdoms, and that you will endeavour to procure for all your allies what is due to them by treaties, and what is necessary for their security. These assurances are the least returns which your faithful Commons can make to so much condescension and goodness; and they humbly desire your majesty, that you will please to proceed in the present negociations, for the obtaining a speedy Peace."

The Queen's Answer.] This Address being, on the 9th, presented to her majesty, by the whole House, she was pleased to return the following Answer:

"I have the safety and interest of all my people so much at heart, that I cannot but take a great deal of pleasure in this your dutiful and prudent Address; and thank you most kindly for it. I have studied your welfare, and by this you will find the good effects of that confidence which you place in me, and which ought always to remain between so affectionate a prince, and such faithful subjects."

Proceedings of the Lords on the Queen's Speech.] Things went not so smoothly in the House of Lords. As soon as the Queen was withdrawn, a motion being made for an Address of thanks, the earl of Wharton said, "They had all the reason in the world to do it, especially for that part of her majesty's Speech, wherein she was pleased to declare, That the assuring the Protestant Succession in the House of Hanover to these kingdoms, was what she had nearest at heart. But that her majesty's Speech containing many other particulars of the greatest consequence, he was opinion, the House would do well to take it into serious consideration the next day;" which was readily agreed to. Accordingly, on the 7th of June

The Earl of *Wharton*[*] proposed, that the letter from the States-General to the queen, inserted in the supplement to the Amsterdam French Gazette, which arrived that very morning, might be read. But this was opposed, it being suggested, that the House ought not to take notice of a writing, that carried no authority with it. After this the Lords took the queen's Speech into consideration, which occasioned a warm debate. Among the rest,

The Duke of *Marlborough* represented, "That the measures pursued in England, for a year past, were directly contrary to her majesty's engagements with the allies, sullied the triumphs and glories of her reign, and would render the English name odious to all other nations."

The Earl of *Strafford* said, "That some of the allies (meaning the Dutch) would not shew such backwardness to a peace, as they had hitherto done, but for a member of that illustrious assembly (meaning the duke of Marlborough) who maintained a secret correspondence with, and endeavoured to pursuade them to carry on the war; feeding them with hopes, that they should be supported by a strong party here."

The Lord *Cowper* answered this speech; and, because the earl of Strafford had not expressed himself with all the purity of the English tongue, he took occasion to say, "That noble Lord had been so long abroad, that he had almost forgot, not only the language, but the constitution of his own country. That, according to our laws, it could never be suggested as a crime in the meanest subject, much less in any member of that august assembly, to hold correspondence with our allies; such allies especially, whose interest her majesty had declared to be inseparable from her own, in her speech at the opening of this session; whereas it would be a hard matter to justify and reconcile, either with our laws, or the laws of honour and justice, the conduct of some persons in treating clandestinely with the common enemy, without the participation of the allies."

The Lords took afterwards into consideration the advantages offered by France to Great-

tion between Great-Britain and France; for if such a plan had been communicated to the parliament, before a majority had been secured in both Houses, and the minds of the people prepared by a long train of artful and plausible insinuations, it would, in all probability, have been exploded with indignation. But by the dexterity of the prime managers things were brought to such a pass, that though, in the House of Commons, one or two members proposed the taking the important matters, mentioned in her majesty's speech, into consideration, they were presently silenced by a general cry for an Address of thanks." Tindal.

[*] "June 17. Lord Wharton is gone out of town in a rage, and curses himself and friends for ruining themselves in defending lord Marlborough and Godolphin, and taking Nottingham into favour. He swears he will meddle no more during this reign; a pretty speech at 66, and the queen is near twenty years younger, and now in very good health." Swift's Journal.

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Britain, particularly in settling the trade to Spain, and to the West Indies, as it was in the time of the late king of Spain Charles the 2d. To this purpose,

The Earl of *Godolphin* said, "That he did not pretend to any great knowledge in trade; but that, during the time he had the honour to be in the administration of affairs, he had observed, and he could easily make it out by the books of the Custom-house, that the single trade to Portugal brought to England, in times of war, double the wealth of the trade to Spain, in times of peace: so that, whatever might be suggested, to cast a mist before the eyes of the people, it was to be presumed that the trade to Spain would still yield less for the future, because the French had made themselves absolute masters of it."

After some other speeches, a motion was made, "That an Address be presented to her majesty, to return her the thanks of this House for her most gracious speech, and for her extraordinary condescension in communicating to her parliament the terms, upon which a General Peace might be made: and to express the intire satisfaction of that House in her great care for securing the Protestant Succession in the house of Hanover; and for her steady pursuing the true interest of her own kingdoms; and for endeavouring to procure to her allies what was due to them by treaties; and to assure her, that this House did intirely rely on her wisdom to finish this great and good work." Some exceptions were made to the words 'intirely rely;' and the House was moved, as the House of Commons had likewise been upon the same occasion, That these words might be added, "And in order to that, that her majesty would take such measures, in concert with her allies, as might induce them to join with her majesty in a mutual Guaranty." This occasioned a debate, in which the Lord-Treasurer and earl Pawlet spoke against that addition, and the earl of Nottingham and the lord Cowper for it. It was urged in opposition to this clause, that it would subject the queen and the whole treaty to the pleasure of the allies, who might prove backward and intractable: and, since England had borne the greatest share of the burthen of the war, it was reasonable that the queen should be the arbiter of the peace. On the other hand it was said, that if the allies did not enter into a guaranty, we must depend on the faith of the French, and be at their mercy, and so have nothing to trust to, but the promises of a court, noted, in a course of years, for a train of perfidy. But many had formed an obstinate resolution to get out of the war on any terms; and therefore nothing, that seemed to obstruct the arriving speedily at that end, was heard with patience, and no regard was had to the faith of treaties. The question being at last put, Whether the clause should be added? It was resolved in the negative by 81 voices against 36.

The reasons of this great majority were then said to be, 1st, Because the Proxies, of which the Anti-Court lords had more than the other side, were not called for; and 2dly, Because several Peers did not think fit, on that occasion, to vote against the Court.

The Queen's Answer to the Lords' Address.] June 10. The Lords presented their Address to the Queen, which, besides the ordinary head, contained nothing but the motion before-mentioned; and to which her majesty was pleased to return this Answer:

"I most heartily thank you for this Address: The satisfaction you express in what I have laid before you, will contribute very much to remove the difficulties which have arisen in the course of this negociation. And the confidence you place in me will enable me better to finish this great work, for the advantage of my own people, and the safety and interest of my allies."

Protest against rejecting the Guarantee Clause, in the Lords' Address.] Several Lords entered a Protest against the rejecting of the Guaranty Clause, offered to be added at the close of the motion for an Address, and signed their Reasons for it, which were soon after published in print as follows:

"We think it necessary to have the security proposed of a general Guaranty, and the rather, because we conceive the terms of peace that are offered, have proceeded from a separate negociation, carried on by the ministers with France, without any communication thereof to the principal allies, particularly the States-General, as they say in the letter to her majesty, (whose interest her majesty was pleased to declare to this parliament, she looked upon as inseparable from her own) and we conceive this negociation to be contrary to those orders which her majesty declared to this House, in answer to their Address, that she had given to her plenipotentiaries at Utrecht, to concert with those of her allies; and the resolution expressed in her Message, January the 17th, of a strict union, in which she proposed to join with them, in order to obtain a good peace, and to guaranty and support the same, as she had before declared in her speech at the opening of this session; that she would unite with them in the strictest engagements for continuing the alliance, in order to render the General Peace secure and lasting; and contrary to the 8th Article of the Grand Alliance, which expressly obliges all the allies not to treat, unless jointly, and with the common advice of the other parties.

"And we conceive that the refusal of these words proposed to be added, may be looked upon by the allies, as if this House approved this method of transacting with France, which may seem to them to tend to a Separate Peace, of which her majesty has declared her dislike, and which was acknowledged in this House to be foolish and knavish, and would be of pernicious consequence to this kingdom, by preventing that Guaranty of Peace by the allies, which is so absolutely necessary for their mutual security, and leave us exposed to the power of France, there being little reason to expect

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their future help, after such a gross breach of trust.

"And we further conceive, that such a separate proceeding may create in the allies so great a distrust, as may tempt them to take the like measures, and to give the French opportunity to break that union, which has been hitherto so useful to us, and formidable to them; any appearance whereof must encourage France, either to delay the conclusion of a peace, or to impose upon the allies in the further progress of the treaty.

"A perfect union among the allies seems to us to be more necessary in the present case, because the foundation upon which all the offers of France, relating to Great Britain, as well as to the allies, are built, viz. a renunciation of the duke of Anjou to that kingdom, is, in our opinion, so fallacious, that no reasonable man, much less whole nations, can ever look upon it as any security. Experience may sufficiently convince us, how little we ought to rely upon the renunciation of the House of Bourbon, and though the present duke of Anjou should happen to think himself bound by his own act, which his grandfather did not, yet will his descendants be at liberty to say, that no act of his could deprive them of their birth-right, and especially when it is such a right, as, in the opinion of all Frenchmen, ought inviolably to be maintained, by the fundamental constitution of the kingdom of France.

"And we humbly think it unsafe to depend upon this principal part of the treaty's executing itself, by supposing it will be the interest of France to support it, since, on the contrary, it is manifest by the French endeavours, ever since the Pyrenean Treaty, to unite the monarchies of France and Spain, they look upon that Union to be their greatest interest, and the most effectual means of establishing the universal monarchy in the House of Bourbon.

"And if it were reasonable to imagine, that the two crowns of France and Spain should remain in distinct branches of the House of Bourbon; yet this is contrary to the Grand Alliance itself, which recites the usurpation of the Spanish monarchy by the French king, for the duke of Anjou, as the principal cause of this war.

"As to Port Mahon, Gibraltar, the Assiento, and the other advantages to Britain proposed by France, (besides that they are all precarious, and in the power of France and Spain to take from us when they please) considering the situation of those kingdoms, and the vast wealth and strength which will be left to them, we conceive it impossible for any man to look on those as a compensation to Britain in any degree, for the leaving Spain and the Indies in the possession of the House of Bourbon; which, besides other manifestly fatal consequences, must be extremely prejudicial to our woollen manufacture, if it does not entirely ruin it.

"As to the demolition of Dunkirk, though we own it will be a great safety to our home-trade, yet we have reason to apprehend, by what was said in the debate, that it is not yet agreed to be demolished, without any equivalent for it to the French king's satisfaction.

"And in all the particulars relating to the allies, though they are not perfectly adjusted, yet by what does appear concerning them, the allies are likely to be left in such a state of insecurity, as is absolutely inconsistent with our own safety.

"The Rhine is proposed for a Barrier of the empire, which leaves Strasburgh and Hunninghen in the hands of the French; the former of which has always been looked upon as the key of the empire.

"The proposals of France relating to the Barrier for the States-General, not only deprive them of all the places taken since the year 1709, but also of two or three places more, included in the demand made by the States in that year, which will render their Barrier wholly insufficient, and consequently very much weaken the security of Britain.

"Portugal seems to be wholly abandoned to the power of Spain, notwithstanding the great advantages we have received during this war by our trade with that kingdom, which might still be extremely beneficial to us.

"Upon the whole, there is so very little and inconsiderable a difference between these Offers of France, and those made at Utrecht, February the 11th, N. S. and signed Huxelles, (as appear to us upon our comparing them together) that both seem to be the effect of a secret and particular negociation with France; and this House having unanimously concurred, in expressing to her majesty their utmost resentment at those terms offered to her majesty and her allies, by the plenipotentiaries of France; and her majesty having graciously accepted that our Address, and rewarded that duty and zeal with her hearty Thanks, we cannot, in respect to her majesty, or justice to our country, retract that opinion, nor think the terms now good for us or the allies, or give any seeming approbation of them, which then were received by this House, and all the allies, with scorn and detestation.

"For these reasons, we are of opinion, that the offers of France are fallacious and ensnaring, no ways proportioned to the advantages which her majesty (from the great successes which it has pleased God to bless her and her allies, during the whole course of this war) might justly expect for her own kingdoms, and for them, very insufficient for preserving a balance of power in Europe, for the future security of her majesty and her allies, though they should be never so exactly performed; and yet, even such as they are, there is no effectual security offered for the performance of them, which makes it absolutely necessary, as we conceive, that such measures should be taken in concert with the allies, as may induce them to join with her majesty in a mutual guaranty. (Signed) Somerset, Godolphin, Devonshire, Berkley,

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W. Oxon, J. Ely, Haversham, Suffolk, W. Asaph, Bolton, Wharton, Marlborough, Dorchester, J. Bangor, Rutland, Nottingham, Carlisle, Bridgwater, Mohun, Townshend, Cowper, Montague, Lincoln, Bedford."

The said Protest ordered to be expunged out of the Books.] The majority of peers were so offended at this Protest, that on the 13th the question being put, Whether the said Protest be expunged out of the Books of the House? it was carried in the affirmative, by a majority of 66 voices against 31 present and of 90 against 54, proxies included. The next day, upon a Complaint made in the House of Lords, that both the said Protest, and the former concerning the Orders produced by the duke of Ormond, were published in print, a Committee was appointed to enquire who were the Printers and Publishers of the same; but this Committee not being able to make any discovery in that matter, the Lords applied themselves, by Address, to the queen for that purpose.

Order of the Council for discovering the Printer and Publisher of the said Protest.] Hereupon, on the 24th of June, the queen in council at Kensington, the following Order was made:

"An Address from the Lords spiritual and temporal in parliament assembled, having been presented to her majesty, that she would be graciously pleased to direct such methods to be taken, as her majesty should think most proper, in order to discover the Printers and Publishers of the Reasons for the Protestation entered in the Journal of that House the 21st of May last; and of one other malicious and scandalous Paper, entitled, 'The Protests of 'the Lords upon addressing her majesty for her 'Speech; with the names of the Lords. Price '2d.' And of any person or persons directing the printing thereof; which having been this day read at the board, her majesty in council taking the same into consideration, was thereupon graciously pleased to order, as it is hereby ordered, That whosoever shall discover to one of her majesty's principal Secretaries of State, the Printer or Printers of the said pamphlets, or either of them, within three months from the date hereof, so as he or they shall be brought to justice, shall have and receive the reward of 50*l.* and likewise, whoever shall within the said three months discover the person or persons that directed the printing thereof, or of either of them, so as he or they shall be brought to justice, shall have and receive the reward of 100*l.* and the right honourable the Lord High-Treasurer is to cause the aforesaid sums to be paid, upon the conviction of the said persons accordingly. EDWARD SOUTHWELL."

The Preface to the Bishop of St. Asaph's Four Sermons ordered to be burnt.] June 10. A Complaint being made to the House, of the Preface to a book, entitled, "Four Sermons. "1. On the death of queen Mary, 1694. 2. "On the death of the duke of Gloucester, "1700. 3. On the death of king William, "1701. 4. On the queen's Accession to the "Throne, in 1702. By William, Lord Bishop "of St. Asaph."* The Book was brought up, and the Preface was read as follows:

"The publishing a few Sermons whilst I live, the latest of which was preached about eight years since, and the first above 17, will make it very natural for people to enquire into the

* "Dr. William Fleetwood an English prelate, descended from the Lancashire Fleetwoods, and born in the Tower of London 1st Jan. 1656. He was educated at Eton and King's college, Cambridge, and on taking orders, became an eloquent preacher. He was made chaplain to king William, and afterwards obtained a fellowship at Eton, and the Rectory of St. Austin's, London. He was installed canon of Windsor 1702, but in 1705, he quitted the tumults of the town, and, much to the concern of large audiences, who attended his eloquent and persuasive discourses, he retired to the privacy of Wexham rectory, in Bucks. In 1706, without any solicitation on his part, or that of his friends, he was nominated to succeed Beveridge in the see of St. Asaph, and in 1714, he was translated to Ely. He died at Tottenham, in Middlesex, where he had retired for change of air, 4th Aug. 1723, and he was buried in Ely cathedral, where his lady, who soon followed him to the grave, erected a monument over him. His only son, Dr. Charles Fleetwood, rector of Cottenham, Cambridgeshire, did not long survive him. Bishop Fleetwood's character was respectable in every point of view. Admired as a preacher, he made an exemplary life, and a benevolent heart, the noblest ornaments of his persuasive eloquence in the pulpit. As a bishop he was beloved by his clergy, and did not arrogantly assume that superiority over them which conscious merit disdains, but illiberal pride asserts. As a writer he was highly respected, his sermons and divinity tracts were widely circulated; but the firmness of his opinions, however, drew upon him the censure of the House of Commons. His Preface to his Sermons, on the deaths of Mary, of the duke of Gloucester, and of William, and on the accession of Anne, gave such offence to the ministry that the book was burned publicly, 12th May 1712; but it was more universally read, and even appeared in the Spectator, No. 384. Besides these, Fleetwood published Inscriptionum Antiquarum Sylloge, 8vo. 1691—a translation of Jurieu's Method of Devotion, 1692, the 27th edition of which appeared 1750—an Essay on Miracles, 8vo. 1701—the Reasonable Communicant, 1704—Sixteen Practical Discourses on the Relative Duties of Parents, &c. 2 vols. 8vo. 1705—the Thirteenth of Romans vindicated, 1710—the Judgment on the Church of England in Lay Baptism and Dissenters' Baptism, 1712—the Life of St. Wenefrede, 1713—Chronicon Preciosum, or Account of English Money, Price of Corn and other Commodities for the last 600 years, 1707, besides smaller works." Lempriere.

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occasions of doing so; and to such I do very willingly assign these following reasons.

"1. From the observations I have been able to make for these many years last past, upon our public affairs; and from the natural tendency of several principles and practices, that have, of late, been studiously revived; and from what has followed thereupon, I could not help both fearing and presaging, that these nations would, some time or other, if ever we should have an enterprizing prince upon the throne, of more ambition than virtue, justice and true honour, fall into the way of all other nations, and lose their liberty.

"Nor could I help foreseeing, to whose charge a great deal of this dreadful mischief, whenever it should happen, would be laid; whether justly or unjustly, was not my business to determine: but I resolved, for my own particular part, to deliver myself as well as I could, from the reproaches and curses of posterity, by publicly declaring to all the world, that although, in the constant course of my ministry, I have never failed, on proper occasions, to recommend, urge, and insist upon the loving, honouring, and the reverencing the prince's person, and holding it, according to the laws, inviolable and sacred, and paying all obedience and submission to the laws, though never so hard and inconvenient to private people: yet did I never think myself at liberty, or authorized to tell the people, that either Christ, St. Peter, or St. Paul, or any other holy writer, had, by any doctrine delivered by them, subverted the laws and constitutions of the country in which they lived; or put them in a worse condition with respect to their civil liberties, than they would have been, had they not been Christians. I ever thought it a most impious blasphemy against that holy religion, to father any thing upon it, that might encourage tyranny, oppression, or injustice, in a prince, or that easily tended to make a free, and happy people, slaves and miserable. No: people may make themselves as wretched as they will: but let not God be called into that wicked party. When force and violence and hard necessity, have brought the yoke of servitude upon a people's neck, religion will supply them with a patient and submissive spirit under it, till they can innocently shake it off: but certainly religion never puts it on. This always was, and this at present is my judgment of these matters; and I would be transmitted to potserity (for the little share of time such names as mine can live) under the character of one who loved his country, and would be thought a good Englishman, as well as a good clergyman.

"This character I thought would be transmitted, by the following Sermons, which were made for, and preached in a private audience, when I could think of nothing else but doing my duty on the occasions that were then offered by God's Providence, without any manner of design of making them public: and for that reason I give them now, as they were then delivered; by which I hope to satisfy those people who have objected a change of principles to me, as if I were not now the same man I formerly was. I never had but one opinion of these matters, and that I think is so reasonable and well grounded, that I believe I never can have any other.

"Another reason of my publishing these Sermons at this time, is, that I have a mind to do myself some honour, by doing what honour I could to the memory of two most excellent princes, and who have very highly deserved at the hands of all the people of these dominions, who have any true value for the Protestant Religion and the constitution of the English government, of which they were the great deliverers and defenders. I have lived to see their illustrious names very rudely handled, and the great benefits they did this nation, treated slightly and contemptuously. I have lived to see our deliverance from arbitrary power and popery, traduced and vilified by some, who formerly thought it was their greatest merit, and made it part of their boast and glory, to have had a little hand and share in bringing it about: and others, who, without it, must have lived in exile, poverty and misery, meanly disclaiming it, and using ill the glorious instrument thereof. Who could expect such a requital of such merit? I have, I own it, an ambition of exempting myself from the number of unthankful people; and as I loved and honoured those great princes living, and lamented over them when dead, so I would gladly raise them up a monument of praise, as lasting as any thing of mine can be; and I chuse to do it at this time, when it is so unfashionable a thing to speak honourably of them.

"The Sermon that was preached upon the duke of Gloucester's death, was printed quickly after, and is now, because the subject was so suitable, joined to the others. The loss of that most promising and hopeful prince was, at that time, I saw, unspeakably great: and many accidents since have convinced us, that it could not have been over-valued. That precious life, had it pleased God to have prolonged it to the usual space, had saved us many fears and jealousies, and dark distrusts, and prevented many alarms that have long kept us, and will keep us still waking and uneasy. Nothing remained to comfort and support us under this heavy stroke, but the necessity it brought the king and nation under, of settling the Succession in the House of Hanover, and giving it an hereditary right by act of parliament, as long as it continues Protestant. So much good did God, in his merciful providence, produce from a misfortune, which we could never otherwise have sufficiently deplored.

"The fourth Sermon was preached upon the queen's accession to the throne, and in the first year in which that day was solemnly observed, (for by some accident or other it had been overlooked the year before) and every one will know, without the date of it, that it was preached very early in this reign, since I was

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able only to promise and presage its future glories and successes, from the good appearances of things, and the happy turn our affairs began to take, and could not then count up the victories and triumphs, that, for seven years after, made it, in the prophet's language, a name and a praise among all the people of the earth. Never did seven such years together pass over the head of any English monarch, nor cover it with so much honour: the crown and scepter seemed to be the queen's least ornaments. Those other princes wore in common with her: and her great personal virtues were the same before and since. But such was the fame of her administration of affairs at home; such was the reputation of her wisdom and felicity in chusing ministers; and such was then esteemed their faithfulness and zeal, their diligence and great abilities in executing her commands: to such a height of military glory did her great General and her armies carry the British name abroad: such was the harmony and concord betwixt her and her allies; and such was the blessing of God upon all her councils and undertakings, that I am as sure as history can make me, no prince of ours was ever yet so prosperous and successful, so loved, esteemed, and honoured by their subjects and their friends, nor near so formidable to their enemies. We were, as all the world imagined then, just entering on the ways that promised to lead to such a Peace, as would have answered all the prayers of our religious queen, the care and vigilance of a most able ministry, the payments of a willing and obedient people, as well as all the glorious toils and hazards of the soldiery; when God, for our sins, permitted the spirit of discord to go forth, and by troubling sore the camp, the city, and the country, (and oh that it had altogether spared the places sacred to his worship!) to spoil, for a time, this beautiful and pleasing prospect: and give us, in its stead, I know not what——Our enemies will tell the rest with pleasure. It will become me better to pray to God to restore us to the power of obtaining such a Peace as will be to his glory, the safety, honour, and the welfare of the queen and her dominions, and the general satisfaction of all her high and mighty allies."

The Complaint against this Preface was made by Mr. Hungerford, seconded by Mr. Manley, and supported by the court-party. But sir Peter King, sir Joseph Jekyll, Mr. Lechmere, and other gentlemen, were very strenuous advocates in its behalf, but to no purpose; for the Commons, by a majority of 119 to 53, resolved: 1. "That the said Preface is malicious and factious, highly reflecting upon the present administration of public affairs, under her majesty, and tending to create discord and sedition amongst her subjects. 2. That the said Preface be burnt by the hands of the common hangman, upon Thursday next, at twelve of the clock, in Palace Yard, Westminster; and that the sheriffs of London and Middlesex do assist the serjeant at arms attending this house in the execution thereof*."

* "It was observed, that, when the Bishop's friends brought him the news of the Vote, far from appearing disturbed at it, he said, 'That 'he esteemed himself very happy to suffer with 'the duke of Marlborough, the earl of Godol-'phin, and so many other illustrious patriots, 'whose reputation their enviers endeavoured 'to blast.' On the other hand, this treatment of a prelate so universally esteemed, particularly by the queen herself, who was used to call him 'her bishop,' was highly resented even by many zealous churchmen. The Bishop wrote the following letter to bishop Burnet, upon this occasion:

"My Lord, June 17, 1712.

"I received the favour of your lordship's letter, and took it, as I knew it was intended, very kindly. The manner of my receiving the indignity put upon my Preface was neither like a christian, nor philosopher, but like a very worldly man. I knew the whole process, and knew it to be a piece of revenge taken by a wicked party, that found themselves sorely stung; and it affected me accordingly, i. e. very little. I am not one, that love to be the talk of the town; and in this part, I confess I was uneasy, although I think the talk was very much in my favour. The complaint was made by Hungerford, and seconded by Manley (people that should indeed have been ordered to have burnt it) and thirded by what we call the court, and carried by numbers, without a wise word said against it. Sir Peter King, sir Joseph Jekyll, Mr. Lechmere and others of the robe, were very strenuous advocates in its behalf; and so were other gentlemen, but to no great purpose; for the court divided one-hundred and nineteen, and my friends but fifty four. If their design was to intimidate me, they lost it utterly; or, if to suppress the book, it happened much otherwise; for every body's curiosity is awakened by the usage, and the bookseller finds his account in it above any one else. The Spectator has conveyed above four thousand of them into other people's hands, that would otherwise have never seen nor heard of it. In a word, my lord, when I consider, that these gentlemen have used me no worse, than, I think, they have used their own country, the emperor, the States, the house of Hanover, and all our allies abroad, as well as all the bravest, and wisest, and the honestest men we have at home; I am more inclined to become vain, than any ways depressed at what has befallen me, and intend to set up for a man of merit upon this very stock. But, pleasantries apart, my heart is wounded within me, when I consider seriously whereabouts we are, and whither we are tending. The court party do now own publicly, that except the allies accept of the conditions, that are offered them, king Philip is not to make any renunciation; and certainly the allies cannot accept of these conditions, unless they are distressed to the last degree:

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A Letter from the States-General to the Queen complained of.] The same day a Complaint being made to the House of a printed Paper entitled, "A Letter from the States-General to the Queen of Great-Britain;" the same was brought up and read as follows,

"Madam; After all the proofs which your majesty has given during the course of your glorious reign, of your great zeal for the public good, and of your adherence to the common cause of the high allies; after so many marks you have had the goodness to give us, of your tender affection, and of your friendship to our republic; and after the repeated assurances you have given us, and that very lately too, of your intentions, That your troops should act against the common enemy, until the war was concluded by a general peace: It is impossible we should not be surprised and affected by two declarations we have lately received, one after another, in the name of your majesty; the first by the duke of Ormond, your general, that he could undertake nothing without new orders from you, the other by the bishop of Bristol, your plenipotentiary to the congress at Utrecht, that your majesty perceiving that we did not answer as we ought the proposals which you had made us, and that we should not act in concert with your ministers, on the subject of peace, you would take your measures apart; and that you did not look upon yourself to be now under any obligation whatever with respect to us.

"As soon as we had notice of those Declarations, we sent orders to our minister, who has the honour to reside at your majesty's court, to represent to you the reasons of our surprize, and the consequences of those declarations, and to request you, with that respect which we always had, and which we shall for ever entertain for your royal person, that you would give other orders to the duke of Ormond, that he may act with all possible vigour, according to the exigency of the war; and that your majesty would have the goodness to entertain other sentiments of us, than those which the bishop of Bristol has declared to our plenipotentiaries at Utrecht.

"But the more we consider those Declarations, the more important we find them, and the more we apprehend their consequences: therefore we could not forbear applying ourselves by this letter directly to your majesty, hoping, that you will consider it, as we promise ourselves you will, both from your prudence and wisdom, and from your so much famed zeal for the public welfare; particularly from your usual friendship and affection for us and our republic.

"We protest before all things, that, as we ever had a true friendship as well as the highest respect for your majesty, and a sincere affection to all your interests, with an earnest desire to live in a perfect good understanding and union with you, we have still the same sentiments, and shall always preserve them, wishing for nothing more, than to be able to give your majesty the most convincing proofs of it.

"After this, we pray your majesty to consider, according to your great penetration, whether we have not just ground to be surprized, when we see a stop put, by an order in your majesty's name, without our knowledge, to the operations of the Confederate Army, the finest and strongest, which, perhaps, has been in the field during the whole course of the war, and provided with all necessaries to act with vigour, and this, after they had marched, according to the resolution taken in concert with your majesty's General, almost up to the enemy, with a great superiority both as to the number and goodness of troops, and animated with a noble courage and zeal to acquit themselves bravely; so that, in all human appearance, and with the divine assistance, which we have experienced so visibly on so many other occasions, we should have been able either by battles or sieges, to gain great advantages over the enemy, to have bettered the affairs of the Allies and to facilitate the negociations of Peace.

"We flatter ourselves indeed with the hopes which the duke of Ormond has given us, that in a few days he expects other orders; but in the mean time, we are sorry to see one of the finest opportunities lost, being uncertain, whether we shall have another so favourable, since the enemy have time given them to fortify themselves, and take their precautions, while the army of the allies lies still without action; and consuming the forage all round, deprive themselves of the means of subsisting for time to come in those places, where, by concert, the operations of the campaign were designed;

We must, and shall have a Separate Peace in spite of all that can be said; and that must be without a renunciation on the part of France and without a guaranty from the allies; and what a Peace is that like to be? It is now said, that England is to constrain the king of France to content the States with a Barrier to their liking; and the rest will come in, or stand out without any danger. But I am afraid England has lost all her constraining power, and that France thinks she has us in her hands, and may use us as she pleases, which, I dare say, will be as scurvily as we deserve. What a change has two years made? your lordship may now imagine you are growing young again; for we are fallen, methinks, into the very dregs of Charles the second's politics; saving, that then they were more reasonable, because our enemy was then in so full power and lustre, as might both terrify and dazzle a poor luxurious prince, that would not be disturbed, nor seemed to care much what became of England after he was gone. The present times may put you in mind of those, with this bad difference still, that now the ruinous effects of those advices seem to be taking place after an interval of five or six and twenty years; and after such an interruption, as one would have thought should have quite baffled and destroyed them." Tindal.

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which may make such enterprizes impossible hereafter, as were practicable now, and consequently render the whole campaign unsuccessful, to the inestimable prejudice of the common cause of the High Allies.

"Certainly, when we consider the army as it really is, composed of the troops of your majesty and the other allies, joined together by common concert, to act for the greatest advantage and furtherance of the common cause, and the assurances which your majesty had given us by your letters, by your ministers, and last of all, by your general the duke of Ormond, of your intentions, that your troops should be ordered to act with their usual vigour, as well as the engagements into which your majesty is entered, not only with respect to us, but also separately and jointly with us, in respect to the other allies. It is very difficult for us to conjecture and conceive how an order so prejudicial to the common cause, given so suddenly, without our knowledge, and undoubtedly too without the knowledge of the other allies, can agree and consist with the nature of an alliance, and with those assurances and engagements just now mentioned. For though, according to the declaration of the bishop of Bristol, your majesty holds yourself to be disengaged from every obligation with regard to us, it is plain, that the matter now in question is not our particular interest or advantage, but that of all the allies, who will suffer by the prejudice which an order so little expected must needs bring to the common cause.

"But, madam, we cannot forbear telling your majesty, that the Declaration made by the bishop of Bristol, at Utrecht, has no less surprized us than that of the duke of Ormond in the army. It appears to us so extraordinary that we know not how to reconcile it with the great goodness and kindness which your majesty has always honoured us with; and not being able to conceive how such a sudden change could happen, with respect to us, we are not only surprized but afflicted at it. We have carefully examined our conduct, and find nothing in it that can have given ground to that dissatisfaction which your majesty expresses with us by this Declaration.

"From the very first day that your majesty ascended the throne, we testified all the deference that you could desire from a state in friendship and alliance with you. We carefully sought after your amity and affection, and, considering the happy effects which a good intelligence, harmony and union betwixt your majesty and us, and the two nations might produce and have really produced, and the advantage which resulted from thence to both, as well as to the common cause of all the allies, we made it our business heartily to cultivate them, and more and more to gain your majesty's confidence and to conform ourselves to your sentiments as much as possibly we could.

"We think that we gave a signal proof of this, particularly with regard to the negociations of peace: since not only after we were informed of the conferences formerly held in England upon this subject, we did expect that your majesty would give us an account of them; having this firm confidence in your friendship for our republic and in your zeal for the good of the common cause, that nothing would be done to prejudice us, nor the other allies; but also when your majesty communicated to us the preliminary articles signed by M. Mesnager in England, and when you proposed to us the calling and holding a congress for a General Peace, and required of us to grant for this end necessary passports for the enemy's ministers, we consented to it, though we had many reasons, which to us seemed very well grounded, not to enter into such a treaty without a better foundation, or at least, without the concurrence of the other allies: but, we preferred your majesty's sentiments to our own, in order to give you a new proof of our deference.

"We did no less, with respect to the difficulties which were started on the subject of the treaty of the mutual guaranty for the succession of the protestant line to your majesty's kingdoms, and for our barrier; a treaty of such importance to the two nations, that we look upon it as the strongest tie that could be thought on to unite for ever the hearts and interests of both; concluded after the maturest deliberation and ratified on both sides in the most authentic form: for though we might have stood to the treaty as it was, yet we entered into a negociation upon those difficulties, and particularly on the point of the assiento, concerning which we gave our plenipotentiaries such instructions, that we no longer doubted but all the difficulties would have been adjusted to mutual content, and that we should thereby have entirely regained your majesty's confidence; and so much the more because in the first place, when the meeting of a congress for a General Peace was in hand, your majesty declared to us by your ambassador, that you desired no more than our concurrence in that single point, and this only mark of our confidence, and that then you would give us strong and real proofs of your affection towards us, and of your upright intentions, with respect to the common cause of all the allies: and that afterwards, when the difficulties about the Succession and the Barrier were raised, your majesty did likewise assure us, that if we would remit something upon the most essential points, and particularly about the affair of the assiento, it would be the true way to re-establish a mutual confidence; which being once restored your majesty would take particularly to heart the interests of this state, and act in conjunction with us in the whole negociation, to obtain an honourable, good and sure Peace.

"But, we find ourselves very much out in our expectation, since at the very same time when we made the greatest advances towards your majesty, and that we did verily believe we should come to an agreement about the

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points in difference, we see the earl of Strafford gone without finishing that affair: we see the army stopped in the beginning of its career, and we hear a declaration, by which your majesty looks upon yourself to be disengaged from all obligations with us; for which the reasons alledged are, that we have not answered as we ought the advances which your majesty made towards us, and that we would not act in concert with your ministers about the Peace.

"If your majesty would be pleased to look with a favourable and equitable eye upon our conduct, we flatter ourselves and have a firm confidence, that you will find nothing in it which can give you such disadvantageous ideas and thoughts of us; but that you will rather find, that we have performed, and do still perform all that we owe, as good and faithful allies; and particularly to your majesty.

"What we have said already, might perhaps be sufficient to persuade you of it: but we must add, that having always esteemed your majesty's affection and a good harmony betwixt the two nations, as one of the strongest supports of our state and of the protestant religion, and as one of the most effectual methods to maintain and advance our common interest and those of the whole confederacy; and this sincere opinion being firmly imprinted on our hearts we were never backward to communicate and consult in all confidence with your majesty and your ministers, upon the affairs of the peace, according to the foundations laid down in the Grand Alliance and other treaties. We declare, that we have always been inclinable and ready to do it, and are so still, as far as we can, without prejudice to the allies, and without departing from or acting against the engagements, treaties, and alliances which we have entered into.

"But, Madam, all the proposals hitherto made to us upon that subject, were couched in very general terms, without communicating to us the result of the negociations betwixt your majesty's ministers and those of France; nor even your majesty's thoughts about the subject which we ought to have concerted together. It is true that in some of the last conferences, your majesty's ministers demanded to know whether ours were furnished with a full power, and authorized to draw up a plan for the Peace; but it had been just, before such a thing was demanded of us, that they should have communicated the result of the negociations so long treated of betwixt your majesty's ministers and those of the enemy; or at least they should have told us your majesty's thoughts.

"Had that plan related only to your majesty's interest and ours, we should perhaps have been in the wrong not to have forthwith come into it, though even in that case the affair would not have been without its difficulties, since the least notice of it which should have come to the enemy, must have been very prejudicial: But, as the plan in question concerned the interest of all the allies, and almost all Europe, we had very strong apprehensions, that as the particular negociations betwixt your majesty's ministers and those of France, and the readiness with which we consented to the Congress at Utrecht, and to the giving of passports to the enemy's ministers, had already occasioned abundance of suspicions, and much uneasiness to his imperial majesty and the other allies: We say, we apprehended that his imperial majesty and the other allies coming to know, which would have been very difficult to conceal from them, the concert betwixt your majesty's ministers and ours for a plan of Peace, and that before the ministers of France had given a specific answer to the demands of the allies, their suspicions and uneasiness would have increased, and that way of proceeding might have given them ground to entertain prejudicial thoughts, as if it had been the intention of your majesty and us to abandon the Grand Alliance and the common cause, or at least, that we alone took upon us to determine the fate of all the other allies, by which his imperial majesty and the other confederates, might have been pushed on to separate measures, and to take such steps as would be no ways agreeable to your majesty's interest.

"We thought these reasons strong enough to justify our conduct to your majesty on this head, and if we did not enter with all the readiness which you might have wished for, into the concert proposed, we hope that at most your majesty will look upon our backwardness only as an excess of prudence or of scruple, and not in the least as the want of confidence in your majesty; while the allies might have considered it as a departing from the treaties, and particularly from the 8th article of the Grand Alliance. We also hope, that your majesty, for the reasons here alledged, will lay aside those hard thoughts of us, as if we had not answered, as we ought, the advances which your majesty made towards us, and that we would not act in concert with your ministers upon the subject of the peace; But, Madam, though your majesty should not acquiesce in our reasons, of which however we cannot doubt, we pray your majesty to consider, whether that be sufficient for your majesty to think, that you are disengaged from all obligations with respect to us.

"Had we acted against and contravened the engagements and treaties which we had the honour to conclude with your majesty, we might have expected from your goodness and justice, that you would have represented those contraventions to us, and not have looked upon yourself to have been disengaged, till such time as we had refused to give all necessary redress. But, as we did no ways engage to enter with your majesty into a concert to draw up a plan of Peace without the participation of the other members of the Grand Alliance, the backwardness we have shewn upon that head, cannot be looked upon as a contravention of our engagements, and therefore cannot serve to disengage your majesty from yours, with respect to us, since we are verily persuaded, that we have fully answered all our treaties and all our al-

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liances, both with your majesty, and with the high allies in general; and that we have done more in this present war, than could in justice, and equity, have been expected from us. All the difference betwixt your majesty and us in this point, is no more if rightly considered, than a disparity of sentiments.

"In truth, madam, if for such a cause betwixt potentates, allied and united together by the strongest and strictest ties of alliance, interest and religion, any one of those potentates could quit all their engagements, and disengage themselves from all their obligations, there is no tie so strong, which may not be broke at any time, and we know of no engagements that could be relied on in time to come.

"We assure ourselves, that when your majesty considers the consequences, you will not persist in the declaration which the bishop of Bristol has made: We beseech you, with all the respect and all the earnestness of which we are capable, that you would not; and also that you would be pleased to revoke the order given to the duke of Ormond, if it be not revoked already, and that you would authorize him to act according to occurrences, and as the exigency of the war, and the advancement of the common-cause shall require.

"We also request you, madam, to communicate to us the result of the conferences betwixt your ministers and those of the enemy, or at least your thoughts upon the Peace, and we will endeavour to give your majesty all imaginable proofs of our deference for your sentiments, and of our sincere desire to preserve your valuable friendship as much as we can, without acting contrary to the faith of the engagements into which we have entered by treaties and alliances with your majesty and other potentates.

"We are firmly persuaded, that it is not your majesty's intention in any manner to break them, since you have always been of the same opinion with us, and the other allies, that a good union betwixt the allies, not only during the present war, but also after the peace shall be concluded, is, and always will be, the most solid, and even the only method to preserve the liberty and independency of all together, and of every one in particular, against the great power of France.

"We again renew to your majesty the assurances of our high and perfect esteem for your person and friendship, as also of our intentions and sincere desires to entertain with your majesty the same good correspondence, harmony and union, as before, and to cultivate the same betwixt the two nations, as far as it shall lie in our power: and we pray your majesty, to preserve likewise for us and our republic, your former affection. We refer for the rest, to what the Sieur Van Borselle, our envoy-extraordinary, has further to say to your majesty on this subject. And pray the Almighty, &c."

"Hague, June 5, 1712. N. S."

Resolutions of the Commons thereon.] After the reading of this Letter the Commons resolved, That an humble Address be presented to her majesty assuring her majesty of the just sense this house has of the indignity offered to her majesty, by printing and publishing a Letter from the States-General to her majesty; and humbly to desire her majesty, that she will so far resent such indignities, as to give no Answer * for the future to any Letters or Memorials that shall be so printed and published: and ordered that the said Address be presented to her majesty by such members as

* But the day before the House came to these Resolutions, the Queen had thought fit to answer the Letter from the States-General, in the following manner:

"High and Mighty Lords, Friends, Allies, and Confederates,

"There is nothing dearer to us than the preservation of a good understanding and a perfect union with your State. This has been the principal object of our care; and we have so little ground to accuse ourselves of having in the least contributed to the lessening of the same, that we reflect with pleasure on the pains we have taken, and on all the instances we have made, that the disputes which have happened, with relation to the interests of the two nations, should be amicably determined, so as we might communicate our thoughts to one another, without reserve, upon those of the public; for in the present conjuncture of affairs, there ought to be an equal frankness on both sides, and a mutual confidence.—We suppose the alarms which you took on account of the declarations made by the duke of Ormond and the bishop of Bristol, are now over; and we repeat to you what we have so often declared, That it will be your own fault, as it has been in time past, if all our measures about War or Peace be not taken in concert with your state. —The earl of Stratford will be with you in a few days, with full instructions concerning our intentions. Our ministers will be disposed and authorised to do all that is incumbent on us, to renew an entire confidence with you, and to prevent, for the future, such misunderstandings as have been fomented with so much artifice and so little foundation.—But, we cannot pass over in silence our great surprize, to see that your letter of the 5th instant, N. S. was printed and published almost as soon as we received it from the hands of your minister; a proceeding which is equally contrary to good politics and decency. It is a remonstrance instead of a representation, and an appeal to the people instead of an address to the sovereign. We hope that you will not suffer the like to be done again, for our honour will engage us to give no answer to any letters or memorials which shall be published in that manner. For the rest, we pray, &c. Your good friend,

ANNA R.

"Kensington, June 9th-20th. 1712."

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are of her majesty's most honourable privy-council.*

Mr. Hampden's Motion for the Allies to be Guarantees of the Protestant Succession, rejected.] June 17. Mr. Hampden made a motion, "That an humble Address be made to her majesty, humbly acquainting her, "That this House has a grateful sense of her majesty's care for her people, in the assurances she so lately made from the throne, That the Protestant Succession in the House of Hanover, is nearest at her heart; and being convinced, that the safety of the Protestant Succession must, in a great measure, depend on the event of the present Treaty for a general Peace, do most humbly beseech her majesty, That she will be pleased to give particular Instructions to her plenipotentiaries, that, in the conclusion of the said Treaty, the several powers in Alliance with her majesty, may be Guarantees for the Protestant Succession to the crowns of these realms, as settled by act of parliament, in the illustrious House of Hanover." Endeavours were used to have this motion dropped, but Hampden, and some of his friends, insisting to have the question put, the same was done accordingly, and carried in the negative, by a majority of 133 voices against 38.

Resolution about the Protestant Succession.] After which it was resolved, 1. "That this House has such an entire confidence in the repeated declarations her majesty has been pleased to make, of her securing to these kingdoms the Protestant Succession, as by law established in the House of Hanover, that they can never doubt of her majesty's taking the proper measures for the security thereof; and that this House will support her majesty against faction at home, and her enemies abroad; and that this House does humbly beseech her majesty, that she will be pleased to discountenance all those who shall endeavour to raise jealousies between her majesty and her subjects, especially, by misrepresenting her good intentions for the welfare of her people. 2. That the said Resolution be laid before her majesty by the whole House."

The Queen's Answer thereto.] The Commons having attended the queen with the said Resolution, her majesty was pleased to return the following Answer:

"Gentlemen, I return you hearty thanks for this Resolution, which is very becoming you, who truly represent all my Commons.—You have shewn yourselves honest assertors of the monarchy, zealous defenders of the constitution, and real friends to the Protestant Succession.—What I have said and done, is sufficient to satisfy any person who is in earnest for the Succession, as by law established in the House of Hanover, that I need not to be put in mind of doing any thing which may contribute to render that Succession secure."

The Queen's Speech at the Adjournment.] June 21. The queen came to the House of Peers, and the Commons being sent for, her majesty, after giving the royal assent to several Bills, made the following Speech:

"My Lords and Gentlemen;

"The last time I was here, I spoke so fully, and afterwards received from both Houses such satisfactory Addresses, that there remains little more for me to say at the close of this meeting of parliament, but to repeat my hearty thanks for your late solemn assurances. They will give me strength to struggle with any difficulties which may yet be raised; and I hope, that neither they who envy the making a good Peace, nor who think it their interest to continue the war, will be able to defeat our joint endeavours for the honour and advantage of Britain, and the security of all our Allies.

"Gentlemen of the House of Commons;

"At the same time that I thank you most kindly for the Supplies you have cheerfully granted, I cannot but let you know my satisfaction in the near view I have of a Peace, since it will, in some measure, recompense my subjects for their vast expences, and also lighten that heavy burden they have borne during the war.

"My Lords and Gentlemen;

"You have expressed how sensible you are of the advantage and security which accrue to Great-Britain, and our allies, by the terms proposed for a Peace. And I need not mention to you the mischiefs which must follow the breaking off this treaty. Our burdens will be at least continued, if not increased; the present opportunity would be irrecoverably lost, of Britain's establishing a real balance of power in Europe and improving our own commerce; and if any one of our allies should gain something by such a proceeding, the rest would suffer in the common calamity. But I hope, by God's blessing, such fatal designs will be disappointed.—You are now returning into your respective countries, and I persuade myself, you will not be wanting in your endeavours, to obviate the designs of any ill minded persons, who may attempt to sow sedition amongst my subjects, and under specious pretences, carry on designs they dare not own.—I hope, at your next meeting, there will be an opportunity of perfecting what I have recommended to you, which you have left unfinished in this Session.—I cannot conclude without assuring you, that nothing shall move me from steadily pursuing the true interest of so dutiful and affectionate a people."

Both Houses were then adjourned.

PRINCIPAL OCCURRENCES DURING THE RECESS—*Mr. Walpole set at liberty—London Ad-*

* "It was observed, that a censure was passed upon it merely to gratify Mr. Secretary St. John; though, on the other hand, several speeches were made, particularly by Mr. Lechmere, to justify the States-General; which gave occasion to some people to say, 'That a vote of the Commons was the only answer, that could be returned to their high mightinesses letter." Tindal.

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dress—Mr. Secretary St. John created Viscount Bolingbroke—Death and Character of the Earl of Godolphin—The Duke of Marlborough retires beyond seas—The Treaty of Peace brought over—The Parliament meets after eleven Prorogations.] This adjournment, instead of a prorogation, occasioned various discourses; some surmising, it was intended as a further mortification to Mr. Walpole, who rather chose to continue prisoner in the Tower, than to make his submission. Others imagined, it was intended, that, at the expiration of the adjournment, the House should sit again for the dispatch of business. But, whatever ground there was for the first of these conjectures it appeared there was none for the latter; for at their next meeting, on the 8th of July, the parliament was prorogued to the 31st of the same month. Upon which Mr. Walpole, and the other persons, who were under confinement by order of the Commons, were of course set at liberty.—Though the queen in her speech said, they approved of her scheme of Peace, yet that was not in any of the Addresses; many indeed, who intended to merit by their officious zeal, had magnified it in their speeches, but both Houses observed one caution, not to express their being satisfied with the plan of the Peace, though it was covertly insinuated.

"On the 12th of June, at an assembly of the lord mayor, aldermen, and common council of the city of London, a motion was made for addressing the queen about the peace; against which some objections were made by sir Gilbert Heathcote and sir Charles Peers, who alledged 'That, the making peace or war being the prerogative of the crown, they ought not to meddle with it.' But the majority, who knew that such a step would be very acceptable to the court, being of a contrary opinion, it was carried for an Address; which being, two days after, presented, with another from the lieutenancy, the queen knighted John Cass and William Stuart, the sheriffs, and Samuel Clarke. Upon this a new set of Addresses were promoted every where, full of gross flattery, magnifying the present conduct, with severe reflections on the former ministry, which some carried back to king William's reign. Some of those Addresses mentioned the Protestant Succession, and the house of Hanover, with zeal; others did it more coldly, and some made no mention at all of it. And it was universally believed, that no Addresses were so acceptable to the ministers, as those of the last sort.—But neither the number, nor the noise of Addresses, which, during the remaining part of the year, were presented to the queen, were able to suppress the murmurings of the Whigs, and even of many Tories, who did not like the terms of Peace contained in the queen's Speech. On the other hand, the astonishment, not to say indignation with which the queen's Speech was received in Holland, is scarce to be expressed; and exceptions against it were published both by the Dutch and Imperialists.

"A few days after the rising of the Parliament, Mr. Secretary St. John was created viscount Bolingbroke.* The earl of Godolphin died of the stone, on the 15th of September. He had served in considerable employments under four princes of very different tempers and designs. Opposite opinions have been delivered of his merit and character. Great abilities and integrity have been ascribed to him by some; while others have freely censured him for notorious defects in the latter, and allowed him to have been great by the chance of place and distinction. The Treasurer's staff was attended with the ill-will and aversion of the Tories; for his rival, the earl of Rochester, by his turbulent zeal, had gained the highest place in their favour. As he had commonly acted in opposition to the Whigs, they likewise entertained great fears and jealousies of him. His whole ministry was embarrassed with both these circumstances; and even prudence, good temper, and success, could not secure him a general good will and confidence. His deliberations were constant and determined for our prosperity at home, and our success abroad. If his difficulties and disadvantages, particularly those with the queen, were duly explained, his attention to the welfare of the nation would be the subject of great admiration. The Union of the two kingdoms was his work; and, though this transaction has been often condemned by great numbers of both parties, yet that does not lessen the merit of the performance. By means of this Union, the Protestant Succession was secured; the influence of France on the affairs of Scotland was much weakened; many occasions of feuds and animosities were removed; and the benefits resulting to the whole island were immediate and important, and likely to be perpetually increasing. Alliances, and the force of recommendations, imposed upon him in some instances; but his great concern was to employ men of capacity and integrity; and such were sure of his kindest regards. He had a true sense of the nation's welfare, and of the proper methods of promoting it. He is said to have preserved great appearances of wisdom by silence and reserve, which are particulars of behaviour supposed to be inconsistent with a great and generous mind. But this was not owing to any thing mean and unworthy; for in all consultations on business, he discovered a surprising greatness of courage,

* "July 1. Mr. Secretary is soon to be made a Viscount. He desired I would draw the preamble of his patent: but I excused myself from a work that might lose me a great deal of reputation, and get me very little."—"July 17. Secretary St. John is made Viscount Bolingbroke. I could hardly persuade him to take that title, because the eldest branch of his family had it in an earldom, and it was last year extinct. If he did not like it, I advised him to be *lord Pomfret*, which I think is a noble title. You will hear of it often in the Chronicles, *Pomfret Castle*; but we believed it was among the titles of some other lords." Swift's Journal.

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and a quick and most exact discernment. His kind, equal, and obliging temper endeared his memory to all, who had the pleasure and advantage of his conversation. His behaviour to the queen was so faultless, that, when she was influenced to dismiss him, shame and concern would not allow her to admit him into her presence; and, therefore instead of permitting him to resign into her hands the treasurer's staff, a letter was send to order him to break it. Unbecoming instances of behaviour may be produced in the lives of great men of all ages and all employments. Had this been duly considered, such severe reproaches had not been cast upon this minister for his love of play and horse-races; by which indeed he became too much, and too frequently engaged with the most worthless of men, gamesters and jockies. But after all, when this objection is thoroughly examined, nothing will appear but a faulty choice of improper amusements; and there were no imputations upon him of any fraudulent practices, though such were then unfamiliar to persons of his rank. Nor did his love for these diversions ever draw him off from the duties of his high station. His letter to the queen just before his dismission furnishes us with the fullest idens of his worth and character; and time hath abundantly verified the representations, which he therein made with dignity and decency, a becoming warmth, and an honest freedom. Such a sense of affairs, and such expressions, could only proceed from a mind truly great and truly good."

"Upon his death the duke of Marlborough resolved to go and live beyond sea. He went away in the end of November, and his duchess followed him in the beginning of February following. This was variously censured; some pretended it was the giving up and abandoning the concerns of his country; and they represented it as the effect of fear, with too anxious a care to secure himself. Others were glad he was safe out of ill hands; whereby, if the nation should fall into the convulsions of a civil war, he would be able to assist the elector of Hanover, as being so entirely beloved and confided in by all our military men; whereas, if he had staid in England, it was not to be doubted, but, upon the least shadow of suspicion, he would have been immediately secured; but now he would be at liberty, being beyond sea, to act as there might be occasion for it. There were two suits begun against him: the one was for the 2 ½ per cent. which the foreign princes were content should be deducted for contingencies, of which an account has been given. The other was for arrears due to the builders of Blenheim-house. The queen had given orders for building it with great magnificence; all the bargains with the workmen were made in her name, and by authority from her; and in the preambles of the acts of parliament, which confirmed the grant of Woodstock to him and his heirs, it was said the queen built the house for him. Yet now, that the tradesmen were let run into an arrear of 30,000*l.* the queen refused to pay any more, and set them upon suing the duke of Marlborough for it, though he had never contracted with any of them. Upon his going beyond sea, both those suits were stayed, which gave occasion to people to imagine, that the ministry, being disturbed to see so much public respect paid to a man, whom they had used so ill, had set these prosecutions on foot, only to render his stay in England uneasy to him.

"On the 3d of April 1713, being Good-Friday, Mr. St. John arrived at Whitehall with the Treaties of Peace and Commerce, signed the Tuesday before, between the British and French plenipotentiaries, and the news, that the ministers of Portugal, Savoy, Prussia, and the States-General, had likewise signed their respective treaties; which was immediately notified in the evening by popular rejoicings. Four days after, the queen held a council at St. James's, in which the lord-keeper Harcourt was declared Lord High-Chancellor of Great Britain; and at the same time the duke of Athol was sworn of the privy council. This done, the queen proposed to the board the ratifying the Treaties of Peace and Commerce: to which the earl of Cholmondely objected, saying, 'This matter being of the highest importance for her majesty and her kingdoms, as well as all Europe, it required the maturest consideration; and these treaties containing several terms of the civil law, in which the least equivocation might be of great consequence, and being, besides, couched in Latin and French, it seemed very necessary to have them translated into the vulgar tongue.' He was supported by another member; but, the time agreed on for the exchanging of the ratifications not admitting of delays, their opinion was over-ruled, and so the queen ratified the Treaties. The next day the white-staff, as Treasurer of the household, was taken from the earl of Cholmondely, and sir Richard Temple was removed from his command of the regiment of dragoons, formerly commanded by the earl of Essex. The Peace being thus signed and ratified, the queen resolved not to defer any longer the Meeting of the Parliament, which had been prorogued no fewer than eleven times."*

* "January 17. I dined to day with Lord Treasurer. After dinner he was talking to the lords about the Speech the queen must make when the parliament meets. He asked me how I would make it? I was going to be serious, because it was seriously put; but I turned it to a jest. And, because they had been speaking of the duchess of Marlborough going to Flanders after the duke, I said the Speech should begin thus: 'My Lords and Gentlemen; In order to my own quiet, and that of my subjects, I have thought fit to send the duchess of Marlborough abroad after the duke.' This took well, and turned off the discourse. I must tell you, I do not at all like the present situation of affairs, and remember

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THIRD SESSION OF THE THIRD PARLIAMENT OF GREAT-BRITAIN.

The Queen's Speech on Opening the Session.] April 9, 1713. This day her majesty opened the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"I ended the last Sessions with my hearty thanks for the solemn assurances you had given me, by which I have been enabled to overcome the difficulties contrived to obstruct the General Peace.—I have deferred opening the session until now, being very desirous to communicate to you, at your first meeting, the success of this important affair: It is therefore with great pleasure I tell you the Treaty is signed, and in a few days the ratifications will be exchanged.—The negociation has been drawn into so great a length, that all our allies have had sufficient opportunity to adjust their several interests, though the public charge has been thereby much encreased; yet I hope my people will be easy under it, since we have happily obtained the end we proposed.—What I have done for securing the Protestant Succession, and the perfect friendship there is between me and the House of Hanover, may convince such who wish well to both, and desire the quiet and safety of their country, how vain all attempts are to divide us, and those who would make a merit by separating our interests, will never attain their ill ends.

"Gentlemen of the House of Commons;

"As great a progress has been made in reducing the public expence, as the circumstances of affairs would admit.—What force may be necessary for securing our commerce by sea, and for Guards and Garrisons, I leave entirely to my parliament. Make yourselves safe; and I shall be satisfied.—Next to the protection of Divine Providence, I depend upon the loyalty and affection of my people. I want no other Guaranty.—I recommend to your care those brave men, who have served well by sea or

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I tell you so. Things must be on another foot, or we are all undone; I hate this driving to an inch."

"February 2. The parliament meets to-morrow, but will be prorogued for a fortnight; which disappointment will, I believe, vex abundance of them, though they are not Whigs: for they are forced to be in town at expence for nothing: but we want an answer from Spain, before we are sure of every thing being right for the peace; and God knows whether we can have that for this month. It is a most ticklish juncture of affairs."

"February 17. The parliament was prorogued to day, and people grumble; and the good of it is, the peace cannot be finished by the time they meet, there are so many fiddling things to do."

"February 27. The Whigs are forming great schemes against the meeting of parliament, which will be next Tuesday, I still think, without fail; and we hope to hear by then that the peace is ready to sign."

"March 3. The parliament was again prorogued for a week, and I suppose the peace will be ready by then, and the queen will be able to be brought to the House, and make her Speech."

"March 8. Lord Treasurer shewed me some of the queen's Speech, which I corrected in several places, and penned the Vote of Address of Thanks for the Speech; but I was of opinion the House should not sit on Tuesday next, unless they hear the peace is signed; that is, provided they are sure it will be signed the week after, and so have one scolding for all."

"March 15. The queen will be well enough to go to parliament on Tuesday, if the Houses meet, which is not yet certain; neither, indeed, can the ministers themselves tell; for it depends on winds and weather, and circumstances of negociation. However, we go on as if it was certainly to meet; and I am to be at Lord Treasurer's to morrow, upon that supposition, to do some things relating that way."

"March 21. Lord Treasurer has been at a meeting with four principal Whigs; but he is resolved to begin a Speech against them when the parliament sits, and I have begged that the ministry may have a meeting on purpose to settle that matter, and let us be the attackers; and I believe it will come to something, for the Whigs intend to attack the ministers; and if, instead of that, the ministers attack the Whigs, it will be better: and farther, I believe we shall attack them on those very points they intend to attack us. The parliament will be again prorogued for a fortnight, because of Passion Week."

"April 7. The parliament will now certainly sit, and every body's expectations are ready to burst. At a council to night, the lord chief justice Parker (afterwards earl of Macclesfield) a Whig, spoke against the peace; so did lord Cholmondeley, another Whig, who is Treasurer of the Houshold. My Lord Keeper, Harcourt, was this night made Lord Chancellor. We hope there will soon be some removes."

"April 8. Lord Cholmondeley is this day removed from his employment, for his last night's speech; and sir Richard Temple, a lieutenant-general, the greatest Whig in the army, is turned out; and lieutenant-general Palmes will be obliged to sell his regiment. This is the first fruits of a friendship I have established between two great men. I dined with Lord Treasurer, and did the business I had for him to his satisfaction. I won't tell you what it was. The parliament sits to-morrow for certain. It will be a very important day. All the world will be at Westminster. Lord Treasurer is as easy as a lamb. They are mustering up the proxies of the absent lords; but they are not in any fear of wanting a majority, which death and accidents have increased this year." Swift's Journal.

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land this war, and cannot be employed in time of Peace.—I must desire you to provide the Supplies you shall judge requisite; and to give such dispatch as may be necessary for your own ease, and the public service.

"My Lords and Gentlemen;

"The many advantages I have obtained for my own subjects have occasioned much opposition and long delay to this Peace.—It affords me great satisfaction, that my people will have it in their power, by degrees, to repair what they have suffered during so long and burthensome a war.—The easing our Foreign Trade, as far as is consistent with national credit, will deserve your care; and to think of proper methods for improving and encouraging our home trade and manufactures, particularly the fishery, which may be carried on to employ all our spare hands, and be a mighty benefit even to the remotest parts of this kingdom.—Several matters were laid before you last session, which the weight and multiplicity of other business would not permit you to perfect: I hope, you will take a proper opportunity to give them due consideration.—I cannot, however, but expressly mention my displeasure, at the unparalleled licentiousness in publishing seditious and scandalous Libels.—The impunity such practices have met with, has encouraged the blaspheming every thing sacred, and the propagating opinions tending to the overthrow of all religion and government.—Prosecutions have been ordered: But it will require some new law, to put a stop to this growing evil; and your best endeavours, in your respective stations, to discourage it.—The impious practice of Duelling requires some speedy and effectual remedy.—Now we are entering upon Peace abroad; let me conjure you all, to use your utmost endeavours for calming men's minds at home, that the arts of Peace may be cultivated. Let not groundless jealousies, contrived by a faction, and fomented by party rage, effect that which our foreign enemies could not. I pray God to direct all your consultations, for his glory, and the welfare of my people."*

The Lords' Address.] The queen being retired, and the Commons gone back to their House, the duke of Beaufort made a motion for an Address of thanks, which occasioned a debate, chiefly about the expression of a General Peace. Some peers urged, that it could not be said to be general, since the emperor, the elector of Hanover, and other princes and states of the empire, were not yet come into it. But they were answered, That it might justly be called general, since the major part of the allies had signed it. After this, another motion was made, That in the Address of Thanks, a clause might be inserted, That her majesty would be pleased to lay before the House the Treaties of Peace and Commerce: but, the question being put, it was carried in the negative by a majority of 74 against 43. The Address of congratulation being agreed to, though without any approbation of the Peace, it was presented to the queen, and is as follows:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, do, with the greatest joy and satisfaction, return our humble thanks to your majesty, for your most gracious Speech from the throne; and for communicating to your parliament, that a Peace is concluded; by which we hope, by the blessing of God, that your people will, in a few years, recover themselves after so long and expensive a war: and also do congratulate your majesty upon the success of your endeavours for a General Peace. We never had the least doubt, but that your majesty, who is the great support and ornament of the Protestant religion, would continue to take, as you have always done, the wisest measures for securing the Protestant Succession: towards which, nothing can be more necessary, than the perfect friendship there is between your majesty and the House of Hanover.—And we humbly assure your majesty, that, as you express your dependence, next under God, upon the duty and affection of your people, we think ourselves bound, by the strictest ties of religion, loyalty, and gratitude, to make all the dutiful returns that can be paid by the most obedient subjects to the most indulgent sovereign."

The Queen's Answer.] Her majesty returned this Answer:

"My Lords; I do most heartily thank you for this Address: And be assured, that I take a particular satisfaction, that you so kindly express the confidence you have in me."

The Commons' Address.] The Commons being returned to their House, as usual; Mr. Pitts made a Motion for an Address of Thanks, which was carried *nem. con.* and the motion for a clause, That the Treaties of Peace and Commerce might be communicated to the House, waved. The next day, Mr. Pitts,

* "April 9. I was this morning with Lord Treasurer, to present to him a young son of the late earl of Jersey, at the desire of the widow. There I saw the mace and great coach for Lord Treasurer, who was going to parliament. Our society met to day; but I expected the Houses would sit longer than I cared to fast; so I dined with a friend, and never inquired how matters went till eight this evening, when I went to lord Orkney's, where I found sir Thomas Hanmer. The queen delivered her speech very well, but a little weaker in her voice. The crowd was vast. The order for an Address was moved: and opposed by lords Nottingham, Halifax, and Cowper. Lord Treasurer spoke with great spirit and resolution; lord Peterborough flirted against the duke of Marlborough (who is in Germany you know), but it was in answer to one of lord Halifax's impertinences. The order for an Address passed by a majority of 33, and the Houses rose before six." Swift's Journal.

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Chairman of the Committee appointed to draw up the Address, reported the same to the House, and after a short debate, about the words, 'To see accomplished,' which by a great majority were voted to stand, the Address was agreed to; and on the 11th presented to the queen as follows:

"Most gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Commons of Great-Britain in parliament assembled, beg leave, with all humility, to approach your royal person with our unanimous acknowledgments for all the benefits we enjoy under your majesty's most auspicious reign.—The many and great successes which have attended your majesty's arms, had left nothing to be wished, but such a Peace as might be conducted by your councils, which now we have the happiness to see accomplished; and as we are truly sensible of your majesty's gracious and generous intentions, in undertaking that great work, so we have all possible reason to admire your steadiness in carrying it on, and overcoming the many difficulties contrived to obstruct it: and it is with the highest satisfaction, we congratulate your majesty upon the happy conclusion of this Treaty: for we are so much convinced of your majesty's tender regard to the public welfare; and the many instances of your wisdom have taught us to have so perfect a reliance upon it, that we cannot doubt but your majesty hath procured all reasonable satisfaction for your allies, and established the interest of your own kingdoms in such a manner, as to make us not only secure for the future, but a flourishing and a happy people.—Your majesty can give no higher proof of the care you take of posterity, than by the concern you are pleased to express for the Protestant Succession in the House of Hanover, upon which the future happiness of this kingdom so much depends. We hope, and trust, that nothing will ever be able to interrupt the friendship between your majesty and that illustrious family, since the wicked designs of those who would endeavour to separate your interests, must be too plain ever to succeed.—Your faithful Commons can never enough express the grateful sense they have of the many gracious assurances contained in your majesty's Speech; and after what your majesty hath done to ease your subjects of the heavy burden which before lay upon them, and after your unparalleled goodness in demanding nothing from them for the time to come, but what they themselves shall judge requisite for their own safety; the best return they can make, will be a ready and dutiful compliance with every thing you have been pleased to recommend: and they cannot fail most cheerfully to set about providing the supplies necessary for this year's service. Your majesty's repeated condescensions must in the strongest manner engage the hearts and affections of all your subjects to your majesty, and we are satisfied we cannot more truly represent them, than by contributing our utmost endeavours to make your reign as prosperous, glorious and easy to yourself, as it is beneficial and happy to your people."

The Queen's Answer.] To this Address the queen was pleased to answer,

"Gentlemen, This Address cannot but be very agreeable to me, as it comes from my loyal Commons; and as it is a continuation of those expressions of duty and affection which you have shewn through this whole parliament."

REPORTS OF THE COMMISSIONERS OF PUBLIC ACCOUNTS—*Remarks on the Management and Disposal of the Public Revenue—Debts due to the Army.*] April 16. Mr. Shippen, from the Commissioners to examine and state the Debts due to the Army, Transport service, and Sick and Wounded, laid before the Commons, their Report, with their Remarks on the Management and Disposal of the Public Revenue, and their Report of their Proceedings in examining the Debts due to the Army. Both which Reports were soon after printed, and the substance of which is as follows:

"Your Commissioners, since their last Report, have finished a general State of the Receipts and Issues of her majesty's Exchequer, from Michaelmas 1709, to Michaelmas, 1710, and from Michaelmas 1711, to 1712, being two years more of the time allotted for their Enquiry into the Accounts of the kingdom; which they humbly offer to your consideration, with their farther Remarks on several Misapplications and unwarrantable Practices in persons concerned in the Management and Disposal of the Public Revenue.

"We begin with those relating to the œconomy of the Army, which, in our opinion, have greatly contributed to that exorbitant expence with which the War hath been carried on by this nation: And we hope what is here produced may answer the expectation of the House, though we are forced to omit many particulars for want of opportunity to examine the Deputy-Paymasters on oath, through whose hands most of the public money, issued for this service, hath passed.

"Mr. Sweet, Deputy-Paymaster in Holland, could only give us satisfaction to some Mismanagements there; and we, apprehending a strict Enquiry into them of importance to the public, transmitted in October last, a precept to him at Amsterdam, requiring his attendance on us, which we understood would be no impediment to the current service, he having, before that time, been dismissed from his employment: But, instead of complying with our summons, he desired an indulgence of six months stay in Holland, which being no longer than the continuance of our Commission, and a request grounded on reasons not fit otherwise to be acquiesced in, we renewed our precept, and insisted on his appearance, with such books and papers as would enable him to give us an exact account of all the public money he had received and paid during the course of this war. His second answer was a repetition of

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his first; and no personal information is, we believe, to be expected from him, without the interposition of parliament.

"Mr. Morrice, Deputy-Paymaster in Portugal, is lately dead, and we are totally disabled from looking into his accounts. But the Paymaster-General hath sent over a person to Lisbon, to examine and prepare them.

"Mr. Mead, Deputy-Paymaster in Spain, is now arrived in England; but we have not been possessed of any of his papers and books, till very lately, and, for that reason, do not pretend to offer our opinions of his accounts.

"One of the great Mismanagements of the Army, is, that of paying regiments without establishments.

"The Paymaster-General hath returned on oath to us, That the regiments of Hogon, d'Assa and Dalzel, were paid by authority of the General's warrant only. Whereas, according to the best information we can receive, no regiment, troop, or company, ought to be paid, without being first placed on some establishment, signed by the crown, and countersigned by the Lord High-Treasurer, or Commissioners of the Treasury, for the time being; and therefore the Generals could not regularly direct such payments, unless the crown had devolved this power upon them, which does not appear by any commission or instructions to have been done. Nor can we understand how they could charge the subsistence of several regiments, serving in Spain, with the large payments that have been made to a body of Catalans, formed there after the battle of Almanza.

"The money given for contingencies and extraordinaries of the war, is by the General's commissions subjected to their directions, because it was impossible to settle any exact establishments for those expences, especially in the distant parts of the war. But to encrease the number of forces beyond what was fixed by the crown, and provided for by parliament, is plainly raising men, and consequently money, without the consent of either.

"As some regiments have been paid which were never on any establishments, so we find others paid before they were established. The regiment of Evans received 9,029*l.* 3*s.* 2*d.* from the time it was raised to the 24th of Dec. 1703, when it was first placed on the establishment for Flanders. The regiment of Pearce received pay from the 8th of January 1705-6 when made Dragoons, to the 24th of December. The regiment of Nassau, from the 12th of July 1706, to the 24th of December. The regiment of Tyrrel and Fielding, from April 1711, when they came from Ireland, to this present time. The regiment of Rochford, from the 27th of August to the 22d of Dec. 1709. The regiment of Dubourgay for the year 1709. The earl of Galway's Spanish regiment of foot for the same year. But of this last regiment we have received so very uncertain an account, that there seems to have been an unnecessary expence drawn on the public, by providing for it, as well when placed on establishment, as when not. For captain Henry Pullein hath deposed, That he had a captain's commission in it, dated the 6th of April 1709, given him by the earl of Galway; That he arrived in Portugal in June following, when he heard the regiment were taken prisoners: that he only found two or three officers there, but never saw any private men, nor never heard that any musters were taken. The Commissary and the Paymaster-General have likewise both deposed, That they never saw any muster-rolls: But there was a list of prisoners returned to the Paymaster, after this regiment was supposed to have been taken by the enemy, wherein is no more than the name of one private man inserted; which hath created a suspicion, that it was an imaginary regiment only and never actually raised.

"Some regiments have been placed on several establishments at the same time; Farrington's was provided for by parliament in the year 1707, on three establishments (viz.) on that of the 40,000 men in Flanders; on that of the 20,000 men in Flanders; and on the additional establishment of Spain and Portugal. Mordaunt's and Maccartney's were provided for on the establishment of the 20,000 men in Flanders, and on the additional establishment for Spain and Portugal. Hill's and Hotham's were put in both the estimates for Spain and Portugal for the same year, and twice provided for by parliament. The sum of 90,954*l.* 19*s.* 2*d.* was given more for these five regiments than was applied to their use; But Mr. Bridges alledges, That so much of the sum as relates to the regiments of Mordaunt Farrington, and Maccartney, was issued for the pay of some foreign corps.

"Other regiments have been paid different from their respective establisments; That of Elliot was placed in the years 1705 and 1706, on the establishments of the 40,000 men in Flanders, at 44*l.* 11*s.* 4*d.* per diem, but paid by Mr. Bridges at the rate of 39*l.* 15*s.* 8*d.* Those of Lalo, Farrington and Maccartney were in 1705 and 1706, on the establishment of the 20,000 men in Flanders, at 42*l.* 10*s.* per diem, but paid at 39*l.* 8*s.* 2*d.* That of Hamilton was on the establishments of Spain and Portugal in the years 1709 and 1710, at 42*l.* 10*s.* per diem, but paid at 39*l.* 8*s.* 2*d.* That of Mordaunt, in in 1707, was on the establishment at 42*l.* 10*s.* per diem, but paid at 39*l.* 6*s.* 2*d.* That of Farrington in 1707, was on the establishment at 42*l.* 10*s.* per diem, but paid at 39*l.* 6*s.* 2*d.* That of Maccartney, in the same year was on the establishment at 42*l.* 13*s.* per diem, but paid at 39*l.* 8*s.* 2*d.* That of Bisset was on the establishment at 36*l.* 10*s.* 2*d.* per diem, but paid at 32*l.* 10*s.* 2*d.* From whence it is observable, that there was given by parliament a considerable sum, more than was applied to this service, or is yet otherwise accounted for.

"As these regiments have received less than their establishments, so that of Carles hath received 1,819*l.* 13*s.* 6*d.* more; it being placed on the establishments for the years 1708 and 1709,

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at 28*l.* 18*s.* 6*d.* per diem only, and paid at the rate of 42*l.* 10*s.*

"A farther charge hath been occasioned by paying regiments on two establishments at the same time. The whole Scotish forces (consisting at the Union, of one troop of Horse-guards, one troop of Grenadier-guards, two regiments of Dragoons, one regiment of Foot-guards, three regiments, and three independent-companies of foot, the garrisons of Fort-William, Dunbarton, Edinburgh, Stirling, and Blackness, with the general-officers, and artillery-companies) were paid both on the English and Scotish establishments from the 24th of December 1707 inclusive, to the first of January exclusive.

"We cannot take upon us to declare, whether all or any of these payments can be accounted for otherwise than by subsequent authorities to justify what was at first irregular: Nor whether such authorities, when obtained, are warrantable and legal. But here we beg leave to state a very unusual proceeding in relation to a payment made to major-general Maccartney, who, as commander in chief of an intended expedition to Canada, was, by the establishment for that purpose, to receive 10*l.* per diem from the 1st of March 1708-9.

"But instead of issuing this pay, as it became due, a warrant was granted the 1st of April, counter-signed by Robert Walpole, esq. then Secretary at War, for the immediate payment of 3,650*l.* (being the amount of it for a whole year) to major-general Maccartney, or those claiming under him, though he should die sooner in the service.

"Pursuant to which, the paymaster, Mr. Howe, on the 7th of April paid in part 840*l.* whereof 42*l.* was deducted for poundage, and 21*l.* 10*s.* for Hospital. But soon after major-general Maccartney falling under her majesty's displeasure, and the command of the expedition being given to major-general Whetham, he refused to comply farther with this extraordinary warrant.

"By a writing, dated the 8th of April, major-general Maccartney acknowledged, that captain Robert Gardner had advanced to him and his family, several sums amounting exactly to 3,650*l.* In consideration whereof he assigned to captain Gardner, or order, all his right and title to the like sum, given him by the Warrant above mentioned; and as a farther satisfaction, promised to procure another Warrant for the same sum in Mr. Gardner's own name, and for his proper use; which was accordingly done.

"The second Warrant, counter-signed by the earl of Godolphin, Lord-Treasurer, bears date the 10th of November 1709, and is drawn in terms agreeable to major-general Maccartney's promise. But is grounded on a suggestion, that Mr. Gardner had disbursed 3,650*l.* for the extraordinary services of the war, for which, as Mr. Gardner himself hath deposed, there was not the least pretence, he having only supplied major-general Maccartney and his family, with money for their own private occasions. Besides, it is plain, by his account of this debt, that a great part of the money was lent before he, or Mr. Maccartney, had any knowledge of the expedition. However, he received the 12th of January following, 2,854*l.* 10*s.* without any deductions for Poundage or Hospital, which with the 795*l.* 10*s.* before received, made up the clear sum of 3,650*l.*

"A considerable time after these particulars had appeared to us by the Accounts and oaths of Mr. Gardner, and Mr. Mirrill, we received a Letter from major-general Maccartney, writ at the request of Mr. Gardner, which (being very circumstantial) is here transcribed at large, that the House may consider the fact in all its views.

"'Gentlemen; This inclosed letter from 'captain Gardner, desiring me to acquaint 'your honourable board with the circumstances 'and considerations of a warrant for 3,650*l.* 'now under your examination, occasions you the 'trouble of mine, to lay before you what I re-'member in that proceeding.—In December '1708, my lord Godolphin proposed to me, the 'command of an expedition to Canada, on a 'scheme recommended to her majesty by the 'commissioners of trade, and projected by one 'Mr. Veich; which having, by his lordship's 'Orders, considered, I returned the papers to 'the Lords of the Cabinet-Council, with such 'alterations as their lordships then approving 'of commanded me to attend them frequently 'at the Cockpit: and that I should procure all 'possible intelligence and information of the 'places and necessaries, &c. for better effecting 'of this service, of which the expence and pains 'should be considered in the establishment.— 'The pay at first proposed to me, was 5*l.* per 'day, to which I made no objection in view of 'proceeding to the government of Jamaica, 'when this expedition should be ended, and of 'leaving my pay, as colonel at home, to subsist 'my family while abroad.—Some time in Ja-'nuary, my lord Godolphin told me, that her 'majesty having occasion to oblige the duke 'of Newcastle, by giving a regiment to Mr. 'Sutton, it would be kindly taken if I could 'submit to the disposal of mine then in Flan-'ders, but that I should propose some equiva-'lent in writing. Accordingly, I gave his 'lordship a memorial, of which Mr. Gardner 'will present you a copy; and thereupon my 'pay was augmented to 10*l.* per day, and one 'whole year agreed to be advanced to me on 'the considerations therein mentioned. The 'warrant granted me according to agree-'ment for 3,650*l.* I assigned to captain Gard-'ner, who supplied me with money during 'my attendance and expensive preparations, 'and of which he received some part before I 'had the misfortune of being dismissed from 'her majesty's service.—But this first warrant 'admitting of deductions, and the paymaster-'general making difficulty of paying the re-'mainder: I again applied to the then Lord-'Treasurer, and the then Secretary at War, for 'redress, and the performance of their engage-

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'ments; that since I had, at their desire, given 'up my regiment and pay as general-officer in 'Flanders, and borrowed money to provide 'myself for this expedition, my creditors and 'family ought not to starve, though according 'to Mr. Howe's explanation of the warrant, I 'was not yet dead. On this application, my 'Lord Treasurer promised to procure a second 'warrant, which, though for the whole sum of '3,650*l.* should serve only to obtain the unpaid 'remainder of the first: And I then going a 'volunteer to Flanders, prayed that this war-'rant might be made payable to captain Gard-'ner, to whom the whole money was then due. '—If in this plain relation, I have omitted any 'thing, you are desirous to be informed of, or 'if by waiting on you in person, you think I 'may give your honourable board any further 'satisfaction, I will readily obey your orders to 'Gentlemen, your, &c. G. MACCARTNEY.'

'November 11, 1712.'

"This Letter is so far from removing the irregularity of the payment, that it adds some circumstances, which are more aggravating, than what hath yet appeared to your commissioners. But, before we proceed to any observations, we must acquaint the House, that the Memorial (which Mr. Maccartney presented to the lord Godolphin, and of which he says we were to expect a copy from Mr. Gardner) is either lost or withdrawn. It is not to be found in the Treasury, nor in the office of the auditors of the imprests; and Mr. Gardner declares on oath, that he neither hath the original, nor any copy; which deprives us of the opportunity of examining into the grounds and reasons of this secret. But, from what hath been proved to us, the first warrant seems to be an indirect disposition of appropriated money, which ought not to have been paid but for services performed; and the clause ordering the advance of a year's pay, though the major-general should die sooner, is not to be justified. If then the first warrant should be thought blameable, the second perhaps will be judged more so, when it is considered, that it was not only grounded on a false suggestion, and contained a direction to exempt this payment from the customary deduction of poundage and hospital, but was procured at a time when major-general Maccartney was under her majesty's high disfavour, and when major-general Whetham had actually a right to the pay, as succeeding into his command. By which means if the expedition had taken effect, the government had been put to a double expence. Major-general Maccartney might have reason to apply to the then Lord Treasurer, and the then secretary at war, for redress (as he calls it) and insist on the performance of their engagements to him, since he had at their desire given up his regiment, and borowed money: But this is no argument, that they could at that juncture, consistent with their respective trusts, and without deceiving her majesty, procure him an equivalent, or undertake to pay his debts out of the public money; or that Mr. Howe had not a more strict regard to his duty, in refusing to comply with the first warrant. Nor is the advancement of the pay, from 5*l.* per diem to 10*l.* to be justified by what this letter urges. For the account there given, is rather an accusation of those concerned in it, as bartering away the public money to gratify private interests and solicitations.

"However, when the pay was settled, he might with justice, had he continued in command, have claimed it as it became due out of the money appropriated to that service. But, as the case stood, there was no pretence whatsoever for paying the sum in question. For he could not claim it, as commander in chief, because (as has been said) he was not so, when the second warrant which took effect, was granted, and the expedition itself was totally laid aside. Nor could he claim it as an equivalent for his regiment, because any such bargain was illegal, and could by no means subject the extraordinaries of the war to the conditions of it. Now whether the person, who received the money, remains accountable to the public for it, or whether he is not, in some sort, discharged by the warrants, is a question proper only for the decision of the House.

"Another instance of Mismanagement in the Army, is, mustering the troops complete. The deputy-commissary in Flanders, Mr. Marshal, hath declared on oath, That, in the beginning of this war, he was directed by the duke of Marlborough to muster the troops in her majesty's pay there complete when defective; that he received a pistole per troop and 10 shillings per company, as a gratuity or perquisite, on every muster from the subject troops; that he never mustered the foreigners, only some corps of them in the year 1702, without having any treaty or establishment for his guide: that he does not know of any other person employed in that service, except Mr. Armstrong, who was once sent (as he has heard) to Liege to view part of the augmentation troops; that he received gratuities on account of the Hanover and Hessian troops; that he applied to the duke of Marlborough after 1702, for a power to muster the foreigners in her majesty's pay, but never could obtain it. The deputy-commissaries in Spain have likewise declared on oath, that, by order of their respective generals, they always mustered the subject troops complete, and signed the rolls without viewing them or knowing any thing of their number or condition; but that they never mustered the foreigners. Mr. Pitt received as a gratuity or perquisite, on every muster, half a pistole per troop and company, during the whole time of his being commissary. Mr. Craggs refused all gratuities for the two first years, after he was made commissary, but the last six months received a pistole per company, and a moidore per troop.

"This practice, we see, is grounded on the general's orders; on the duke of Marlborough's in Flanders; on the other generals in the

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other parts of the service, and it is justified by the pretence of applying the non-effective money to the recruiting the army; which is alledged, to have been so far from proving a disadvantage to the public, that it hath been a loss to those officers, who were obliged to recruit their respective regiments, troops and companies, and to take it in lieu of recruit money. Notwithstanding which, your commissioners think themselves obliged to take notice, that those warrants, or orders of the generals, have been a direct breach of the law, an occasion of great expence to the public, and a detriment to the service. First, they are a direct breach of the law. For by the acts of mutiny and desertion, the commissaries are joined to muster only effectives, and that in a very precise and exact manner. If the contrary practice had been thought serviceable to the public, no doubt the legislature would have prescribed it in some of those acts, which were only temporary, and every year capable of receiving any amendments. But being constantly renewed in the same strict terms as to the musters, though frequently altered as to other points, they seem to be so many repeated condemnations of this practice. Nor can your commissioners be informed that there was ever any attempt in parliament to make it legal by those who directed it; and it may therefore be presumed, that they either did not think fit to own the practice, or that they apprehended themselves under no obligations to the laws in this case, as not extending to her majesty's forces abroad. But such a construction can by no means be admitted, being inconsistent with the design and nature of laws, intended to regulate the army in time of war, and to be a rule to the Paymaster-general. For if the effect of them should be restrained to the forces at home, which are but few, then the troops in service abroad, which are the greatest part of those in her majesty's pay, would be under no discipline, the public money squandered without any method or rule of payment, and all the ends of these acts entirely defeated. A further proof of the irregularity of this practice is, that when it was judged proper to allow a man per company on the muster-rolls, for maintenance of officers poor widows; the queen was impowered by a particular clause to give such orders to the several commissaries. Which supposes the crown could not otherwise have legally done it in a case that must be confessed to be of great encouragement to the service. If then the crown could not dispense with any part of these laws, your commissioners conceive so notorious and open an infraction of them will never be indulged or justified in others, on any pretence whatsoever.

"This practice was unnecessary, as well as illegal. For all the pretended uses of it might have been effectually and regularly answered by respites, if they had been made in the manner prescribed by the acts. But that having never been done during this practice, the commissaries have so long been useless; the officers made the only checques on themselves with respect to the effectives: the crown deprived of the right of disposing of the money raised by respites, and that power transferred to the general. But it has also been an occasion of great expence to the public, and a detriment to the service. The Paymaster-general (as he urges in apology for himself) was under an obligation of paying and remitting more money, than was sufficient for carrying on the service. For the troops being mustered compleat, and the muster-rolls being his only guide, he was constrained to make his payments full, though he had reason to believe the troops were at the same time not above half complete, particularly those in the more remote parts.

"The earl of Godolphin, when lord-treasurer, ordered him in 1707, to present this method of mustering and paying the troops complete, as a grievance to the earl of Galway (general in Spain and Portugal) and he accordingly did it in very pressing terms, as occasioning great losses to the public.

"We are unable to explain how it came to be continued after so just a Remonstrance against it; no reason appearing to us, why those in the treasury should retract their opinion of the great losses occasioned by it. For the earl of Galway's return to Mr. Bridges's representation, is no answer to the objections, but a confirmation of the truth of them. So little regard was afterwards had to this complaint, that in the year 1709, on raising six regiments of dragoons in Portugal, the earl of Galway issued warrants to the respective colonels of those regiments to reduce each troop to 31 private men; and that, having that number on the spot, they should pass as complete, though by the establishment they were to consist of 45. On a computation of the pay for the 14 men per troop from the 24th of August 1709, (which was the time when these regiments were placed on the establishments for Portugal) to the 9th of July 1711, there appears the sum of 25,983*l.* to have been sunk, or misapplied, by virtue of this warrant. After the earl of Galway left the service, this method of mustering the troops complete, was pursued by all the succeeding generals in those parts, till her majesty, highly sensible of the evil consequence of it, and apprehending the expence of the Spanish war would thereby become insupportable to her subjects, was graciously pleased in 1711, to send instructions to the deputy paymasters there to pay none but effectives: and then the inconveniences of it, which had been so long submitted to, were owned and represented in their full light. But the whole matter will be best explained by the Letters, Answers, and Memorials of the generals and paymasters, and we are prepared to present attested copies thereof, when the House should be pleased to call for them; together with the most material depositions relating to every other subject in this Report. Whereby it is hoped you will receive satisfaction, that we have stated no fact without evidence, nor ad-

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vanced any observation without authority. It might be added, that this method had been a further occasion of expence, by supplying Provisions, Transports, Clothes, and other necessaries, according to the full establishments; and the troops (as is before said) being every where defective, and in some parts of the war not above half complete, the loss on these heads must be proportionable to the deficiency.

"We cannot yet form any representation of the produce of the Non-effective Money, or compare it with the expence of recruiting; because the Pay-master-General hath only exhibited to us some abstracts thereof, returned from his Deputies abroad, which he cannot attest as perfect accounts. Nor can we receive any more certain information in this matter from Mr. Le Fevre, who was secretary to the general from the beginning in Portugal. For he deposes, that the book, in which he kept an exact and distinct account of all the Non-effectives in Spain and Portugal, was taken from this office some time before he left Lisbon; and that the loss of this book disables him from giving an account of the Non-effective Money, which he could otherwise very particularly have done. It cannot therefore be determined, whether the loss has fallen on the public or the recruiting officers: But on what side soever it hath fallen, the practice is equally culpable, and will avail little to the vindication of those who directed it. It is highly probable the loss hath only affected the public, otherwise it will be difficult to account for the constant contributions, which have been made to the commissaries on every muster by the subject troops, or for the presents which were given occasionally by the foreigners. For we cannot imagine that they would make presents, or allow perquisites, for what they found an injury to them. However that be, the demand or even the acceptance of gratuities on musters from the troops by the commissaries, if it is not to be accounted a corruption in them, it hath at least the appearance of it, and must be admitted to be in some degree a breach of their duty; or, it must be granted that (as they plead in their own defence) they could be guilty of no breach, because they lay under no obligation, and received their offices, as offices of form, and not of duty.

"What hath been hitherto said relates only to her majesty's subject troops. But the mismanagements have been yet greater and more gross, with respect to the Foreign Forces in British pay; they never having been mustered at all. For neither the review made by Mr. Marshal in conjunction with the Dutch commissary without treaty or establishment for his guide, nor that reported to be made by Mr. Armstrong of a particular corps at Liege, can be accounted musters, no lists thereof being returned to the British commissaries, or pay-masters. But if it should be insisted on, that these were musters; it is extraordinary that (such as they were) they should be discontinued, and that the commissaries application to the duke of Marlborough for an order to muster them in succeeding years, should be unsuccessful. The reason given to support this practice, as it concerns the subject troops, ceases with regard to the foreigners. For they, or their respective princes are always allowed both ordinary or extraordinary recruit money, besides their constant pay; as appears by the several treaties, conventions and stipulations with them; and there is not the least colour for their being mustered complete, when they were defective, nor any excuse for those who refused to give power for their being mustered at all. Because the public, paying always complete, is thereby evidently defrauded, and, in effect, pay twice for the same thing.

"Your Commissioners would not insinuate, that the restraining the commissary in Flanders from mustering the foreign troops, was an implied or secret article, in the stipulation for the deduction of two and a half per cent. from their pay. But it is very remarkable, that the warrant for the deduction bears date in 1702, and that since that year, the foreigners in her majesty's pay only have been under no regulation, though we are informed, those in the service of the States-General were constantly mustered.

"We cannot omit observing farther, that the payments of the extraordinaries to the foreigners in the Low-Countries in the joint pay of her majesty and the States-General, have been made pursuant to the certificates of Mr. Van Slingerlandt, secretary to the council of States, without the examination or concurrence of any appointed by her majesty, till of late. Now it is in no sort evident to us how such certificates can be received as vouchers in passing the accounts of the paymaster, or how an order of the States can charge the public money of Great-Britain: And yet, since the beginning of the war, no less than the sum of 597,771*l.* 17*s.* 5*d.*¼ hath been paid on this head only.

"This practice of mustering complete was never directed here in England: Mr. Crawford, deputy commissary-general, hath deposed, that he takes it to be illegal, and that he gave orders not only to the deputies in England, but to all the deputies abroad to muster only effectives, and the men allowed in each regiment for the support of widows and servants to officers. However, the musters have been made without due regard to the acts of mutiny and desertion, or to the instructions given to the deputy-commissaries; some instances of which were represented to the House the first sessions of this parliament by a committee appointed for that purpose; and some others have since appeared to us. Several persons who have long served in the first regiment of foot-guards, have declared on oath, that for the two last years there have not been in any one company of that regiment above 48, and sometimes but 36 men, whereas there should have been 65 besides servants, (before they were lately reduced) that the names of several

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persons were inserted in the rolls, who were never listed nor seen in the regiment, and others certified sick by the chirurgeon without his seeing them, or knowing any thing of the state of their health. The same irregularities have been practised in other regiments; but we are the less particular, because they are very notorious.

"There is a pretence of mustering in Scotland, but the Rolls have always been returned complete, and by the acknowledgment on oath of several officers belonging to the regiments of dragoons there, and of Mr. John Campbell, late contractor for providing forage, the troops have ever since the Union been generally six or seven less than their complements besides the officers servants, and two hautboys returned in each troop, whenever any were mustered, except a few in general Echlin's regiment, and that for a short time only. This is confirmed by the oath of Mr. Rutherford, in whose name the commission of muster-master was issued, dated the 20th of July 1709, and who executed that office; but by an agreement with one Mr. Elliot, a laceman in York-buildings, (for whose use this commission was obtained) he was to receive only 6*s.* 8*d.* out of the 20*s.* per day, payable to the commissary by the establishment, and was also obliged to give to Mr. Elliot the perquisites of 2 guineas per troop, and 10*s.* per company allowed by them on each muster. Your commissioners therefore are not surprised to find that the public hath suffered by false musters in Scotland, when the office of muster-master was given to a person unqualified for it, and he employed a deputy (for Mr. Rutherford owns he was no more, though named in the commission) on so hard terms. Besides, Mr. Elliot was at that time agent to the earl of Hindford's regiment; an office not consistent, we apprehend, with that of muster-master. The ill consequences of these false musters, appear likewise in the unnecessary expence of forage for the dragoon horses. For they were very defective, as well as the men, and the certificates from the officers to the contractors, were also complete. Mr. Cochran confesses, that when he was contractor, he received the queen's bounty-money for near 800 horses more, than he provided with forage.

"The Management of the Hospitals is another grievance of the Army, and we therefore lay before you such informations, as we have received, of the excessive charge in furnishing provisions for them, particularly those in Spain, together with the hardships the sick men there have endured, by the scarcity and unwholesomeness of the provisions, and by the great frauds of the persons, who provided beds, medicines and other contingencies for them. Dr. La Cane deposed, that he attended the hospitals in Spain for some time; that he, observing the accounts of Mr. Marks, the director, to be very extravagant, refused to sign them, which as physician he was required to do; that during the 3 years Marks continued director, each sick man cost the public 2*s.* 6*d.* a day, besides 5*d.* deducted from the regiments: That Marks allowed the recovering men (which were generally one half) only 5*d.* per day to provide for themselves, and charged to the government 2*s.* 6*d.* for each of those men; that this management continued from the year 1706 to June 1709, when Marks was dismissed. These Hospitals were, for the years 1706, 7, and 8, paid out of the poundage of the army, being principally intended for Chelsea College, a great debt and expence hath arisen on that head. In June 1709, a contract was made with Dr. La Cane at 10*d.* per head from the government and 5*d.* per head from the regiments. This contract continued above a year, during which time the men were very well supplied, as is proved to us, by the oaths of M. Durette chaplain, and Mr. Hay chirurgeon to the Hospital, though provisions were as dear as when Marks furnished them. By comparing the rates of this contract, with those allowed to Marks, it is plain, that the provisions for one half of the men cost the public more than double what it might have been furnished for, and that for the other half the public paid six parts in seven more than the sick received.

"As to the Scarcity and Unwholesomeness of the provisions furnished by Marks, not only Dr. La Cane, physician, but Mr. Chilcot and Mr. Hay, chirurgeons, have sworn, that very often the beef, and other flesh, was carrion, and that all the provisions were generally so unsound, as to occasion a constant mortality. Besides, Marks did not furnish half the quantity which he ought to have done. The allowance to each sick man was fourteen Spanish ounces of bread per diem, and he seldom gave them more than six. The proportion was the same with respect to other provisions; so that on these two heads he made as great an advantage to himself, out of the allowance to the poor men, as he had in the other articles from the public. Dr. La Cane farther deposed, that Mr. Watkins (who was director before Mr. Marks, received 1,000*l.* to buy Bedding for the hospitals, of which he expended very little, that the sick men lay on the ground, till the magistrates of Valencia in compassion, supplied them with bedding at their own charge; that afterwards Mr. Marks received 300*l.* for the same purpose but never laid out any part of it. So great a mismanagement could not have continued so long, without the connivance, at least, of those persons, who were appointed by the generals to be a check on Marks's accounts; but he being now in Germany, his native country, we cannot arrive at a more particular knowledge of that matter.

"As to the Hospitals in Flanders, we have examined Mr. Cardonnel, who audited the accounts, and Mr. Erquel and Mr. Amiens, chirurgeons. The first informed us, that he left all the accounts, except those of 1711, with Mr. Sweet in Holland, and that he could not charge his memory with any particulars. The other two said, they signed the accounts only as s

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matter of form without examining them: Mr. Hudson, the director of these Hospitals, and Mr. Sweet, the deputy pay-master, can give the best information. But one is in Flanders, and the other (as is before observed) in Holland; for which reason, we cannot proceed in this enquiry. The same must be said with relation to the Hospitals in Portugal. For though we find in Mr. Brydges's accounts, great sums of money paid by Mr. Morris, to Mr. Bucknell, deputy commissary there, and to Mr. Keat, some time director of those Hospitals; yet Mr. Bucknell being in Portugal, Mr. Keat at Port-Mahone, and their papers not transmitted to England, we cannot know the exact distribution of those sums, or of any other issued to them for that purpose.

"But the Mismanagement in the Hospitals abroad, have not been more gross in their kind, than those in Chelsea-College. For it appears on oath, that a great many persons have been received into this hospital, who never served in the Army, as coachmen to the governor, and deputy-governor, clerks to the deputy-paymaster of the pensioners, servants to the officers of the house, and many more; others have been admitted by forged certificates, of which the instances are too numerous to be inserted here, and we will only mention two. Francis Core, messenger to the war-office in 1709, made public declarations that he could get any person into the hospital for money. Whereupon abundance of poor people, butchers, alehouse keepers, bakers and taylors, applied to him: amongst others Salathiel Humphrey gave him 6 guineas, Nicholas Taylor 11 guineas, John Smith 10 guineas, and were all accordingly admitted, though none of them qualified. Middleton and Dumster, serjeants in the hospital, took 12 guineas from Thomas Fletcher for his admission. Several persons after their admission, have been advanced in their pay, and without qualification to warrant such advancement. They are too many likewise to be mentioned; but this practice hath very much contributed to the charge of the hospital. Some persons who were fit for service, and some, who have sufficient substance to support themselves, have been admitted, as Evans, Holloway, Marks and Price, with many more; which is contrary to the intention of the foundation, and hath also created an unnecessary expence.

"Another Abuse is the defrauding the Pensioners of a great part of their provisions. It appears by the Depositions of Spencer, Grimes and Hardy, pensioners there, that each man's allowance of beef, when boiled, seldom weighed above 6 ounces, and very often but four, which according to the establishment ought to have been a pound, when raw. The same persons have sworn, that the provisions are very bad, and no ways answerable to the contracts. The contracts for furnishing provisions have been made at much higher rates than those for other hospitals, and perhaps it is, in some measure, owing to the presents the contractors thought themselves obliged to give to the governor and lieutenant-governor. William Banks, a butcher, deposed, that he furnished the governor's family with meat, to the value of 110*l.* per ann. and gave a receipt for his bill without receiving any money. Mr. Green, the brewer, also deposed, that he made a present to the governor of the hospital, of the beer spent in his family, which amounted annually to 20*l.* or more; and that about fifteen months since he was persuaded by Mr. Crispe, clerk of the hospital, to do the same to the lieutenant governor. The present contracts are made on much worse terms, than the former.

"The State of the Invalids in North Britain is this: Mr. Walter Lockhart, intendant, by the direction of the lord Godolphin, paid the 23*d* of Dec. 1708, 5,987*l.* 18*s.* 1*d.* in money to Mr. Archibald Douglas receiver-general, and gave him certificates for 2,978*l.* 1*s.* 9*d.* more due on the equivalent; both which sums are a stock to maintain the invalids. When this direction was given, the money was placed out at an interest on good security, which would in a great measure have supported them. But, since it has been lodged in Mr. Douglas's hands, no interest has been received for it, and they are subsisted out of the capital stock, which in a short time will reduce it to nothing, and leave them without any provision. There is reason to apprehend the expence of the war has been greatly increased, by making remittances abroad, for the army and navy, on terms very disadvantageous to the government.

"As to the Remittances for the Army in Flanders, sir Henry Furnese was employed by the treasury to make the best bargains he could, and to be accountable to the public for the profit. We have required these accounts, and the auditor of the imprests, who is possessed of them, hath acquainted us, that he hath not yet been able, by reason of their bulk, to go through them. But we have information on oath, of an advantage of one per cent. and sometimes more, made by receiving money at Amsterdam, and paying it in Flanders. Captain Leathes, paymaster of the train of artillery, acknowledges, he received this premium to his own private use. But whether the deputy paymasters in Flanders and Holland had the same benefit, cannot be known, unless Mr. Sweet and captain Cartwright were in England.

"The Remittances for the Forces in Spain and Portugal have chiefly been undertaken by contractors, and the contracts have always been made on conditions, much exceeding the common rates of exchange. The same methods have been practised in returning money for the use of the navy and victualling to Spain, Portugal, the West-Indies, and other parts.

"The Mismanagements in the Cloathing are as great and oppressive as any in the army; and we have not been wanting in our endeavours to detect some instances thereof, in order to have laid them before you. But we are not yet prepared to do it so fully and clearly, as we desire to state every thing, which we presume to offer to the house.

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"We have enquired into the execution of the several acts of parliament, relating to the issuing Debentures, for what remained due to commission officers, non-commission officers, and private men, serving in the last war; and find, that the earl of Ranelagh, late paymaster-general, did, according to the powers and directions given, make out Debentures for what was due to the non-commission officers and private men, and took security from the persons appointed to receive them: that several of those persons have not regularly, and on oath, accounted for them before the said paymaster, nor returned the unissued Debentures, as is directed by the act. But we cannot come to any exact state of what hath been paid, or accounted for, by reason some of those entrusted with the payment of the private men, have declined appearing before us, though frequently summoned; and others with their securities are dead, and their executors not to be met with. What therefore we have to offer on this subject, is from a return made on oath by Mr. Sloper, who issued most of the Debentures for the earl of Ranelagh: from whence it appears, That several persons remain still accountable for above 60,000*l.*

"That the Debentures so issued by the paymaster, carried interest; and those which are not discharged by the purchase of Irish forfeitures, have still interest at six per cent. by a parliamentary provision. That the distance of the place where the private men served might be some pretence for these persons not accounting with them within the year; but we can see no reason for their not doing it in so many years, and consequently for not passing those accounts with the paymaster in some prescribed time. That there is no ground to believe, the private men, to whom these Debentures were due, are either dead, or not likely to make any claim. And the House will best judge, whether such sums should remain in the hands of private men, receiving a constant interest for them without any right whatsoever; or whether they might not rather be applied to the public service. We also find about 508 of the Debentures, which were prepared by the earl of Ranelagh in 1702-3, pursuant to the certificates of the commissioners for stating the debts of the army as due to the commission officers, have not yet been issued, nor called for; and we may presume, after so many years, will never be claimed. They amount in the whole to 7,126*l.* 2*s.* 6*d.* which will be so much saved to the public, unless they should be taken out by virtue of fraudulent administrations; a practice we have reason to suspect has been too frequent on this occasion.

"Soon after the commencement of our commission, we required Mr. Whitfield, late paymaster of the Marines, to lay the accounts of those regiments before us; which, after many delays, he did, but in a very imperfect manner. We insisted on a more distinct account, whereupon he (being then very ill) sent his chief clerk, Mr. Sizer, to us; who deposed, That the accounts could not be more perfect without muster-rolls, which Mr. Lynn, the commissary, had not returned. In answer to this, Mr. Lynn hath declared, that he could not make up the muster-rolls further than the 24th of December, 1709, for want of the ships books and the certificates from the agents of the Commissioners for Sick and Wounded: Which books and certificates could not be had from the distant states of the service till those employed there came to England. These difficulties prevent our stating the accounts of the Marines. But it is obvious, That the expence of the navy is encreased by them. The pay of 8,000 marines, according to the establishment, amounts to 128,133*l.* 5*s.* per annum. The pay of 8,000 ordinary seamen to 98,800*l.* per annum. The extraordinary charge therefore is 29,333*l.* 5*s.* and how far it might be thought necessary to continue in time of peace, is humbly left to the judgment and determination of parliament.

"The next great branch of Expence to the Public is that of the Navy; and we here present what hath occurred to us on this head. First, we perceive considerable balances have continued in the hands of the treasurers, and of their executors after the time of their dismission or death; which, notwithstanding the great necessities of the government, have lain long unapplied to the services for which they were intended.

	£.	s.	d.
About the time of sir Tho. Littleton's death in December, 1709, there was in the hands of his Executors and Instruments - - -	135,309	2	6
There remained			
In Dec. 1710 - - -	66,773	4	4½
In Dec. 1711 - - -	62,390	14	4
In Dec. 1712 - - -	22,315	9	3
The Balance in Mr. Walpole's hands the 31st of July, 1711, some little time after his leaving that employment, was - -	330,653	14	3½
Which had been reduced gradually, as by his Account on Sept. 30, 1712, to - - - -	19,059	4	10½
There remained Dec. 3, 1712 - - - - -	17,212	8	3½

"The Reasons given for this practice are, That the Treasurers ought by their instructions to detain money in their hands, when they are displaced, for satisfying defalcations, &c. and for defraying the expence of passing their accounts. But we cannot find the first argument favoured by a reasonable interpretation of the instructions, nor is there any just pretence, why the whole balances, in the hands of the preceding treasurers, should not be immediately paid over to their successors. On the contrary, there is very good ground for doing it,

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to avoid the charge of keeping clerks, and other instruments, for displaced, or dead officers, and that the money might be employed towards carrying on the current service. As to the defraying the expence of their accounts, this is by no means a method proper to hasten the passing them; and that allowance, if thought necessary, might be made several ways, less prejudicial to the public, than by the detention of so great sums as usually have rested in their hands. For this we have the opinion of the Commissioners of the Navy, who, as they are the sole examiners, so they are in consequence the sole judges of the Treasurer's accounts, though they do not finally pass them.

"We also find large Imprests granted in the time of each Treasurer since the Revolution, whereof there remained uncleared the 31st of Oct. 1712, the sum of 607,851*l.* For which it is alledged, That the accounts have either been brought into the comptroller's office, or not sufficiently vouched, or that the accounts, or some of them, are before the comptroller, under the examination, or that the parties are abroad, and have wages due to them, which will not be allowed till their imprests be cleared, or that when the Treasurer brings the imprests to account in his ledger, they are allowed him in part, or the whole; and the parties are set *insuper* in the Exchequer.

"But these allegations cannot, we presume, be admitted as sufficient. For the accounts ought to be brought in every year, where the distance of place will permit; and the large sums, which have been imprested to the store-keepers and clerks residing in England, from 1704, should have been long since accounted for. Whereas no effectual care hath been taken to compel them to it, and they seem too much left at their own liberty, to the great damage of the public. Though they are to be set *insuper* in the Exchequer, when the imprests are allowed to the Treasurer; yet the Treasurer's accounts are so long generally in passing, that the parties are often dead, or insolvent, before that is done: and of those which have been set *insuper*, there does not appear any considerable sums to have been accounted for. There are some imprests before 1702, which have neither been accounted for, nor set *insuper*, nor mentioned in the Treasurer's ledger; and other sums have been very lately repaid to the Treasurer in money; which have been so long imprested, that the interest would have equalled, if not exceeded the principal; to the great loss of the public, which paid interest for that money, as well as to the disadvantage of the service.

"We should next lay before you the Management of the Commissioners for Victualling her majesty's Navy; which, as it hath the direction of so large an Article of expence, is of great consequence. But some instances of notorious embezzlements and scandalous abuses in her majesty's Brew-house, and in the contracts for furnishing the Navy with beer, having been lately examined and censured by parliament, the House wants less information of the frauds committed in this office, than of others concerned in the disposal of the revenue of the kingdom. However, we have not neglected to enquire farther into the proceedings of this commission, and find that the pursers, in combination with the agents and store-keepers, have carried on their fraudulent practices in all other species of provision, as well as beer, to the detriment of the government, and to the injury and discouragement of the seamen.

"James Essex, purser of the Worcester, is charged with more than the full proportion of several species of provisions for 280 men, from the 18th of Jan. 1703-4 to the 11th of April 1709. But it appears from the musters, That at a medium no more than 237 men were victualled at that time on board this ship. He owns, that he often gave receipts for more provisions than he received; that he took money for the overplus; that he sold part of what was actually delivered to him; that is a common practice among pursers: that the agents and store-keepers, employed at the out-ports, are instrumental in carrying it on, and have a share in the profit: that he is charged both at Portsmouth and Plymouth with provisions, which he neither received in kind, nor was paid for by the agents or store-keepers. This evidence is confirmed by the accounts of victualling this ship, wherein we find him charged at Plymouth with a considerable quantity of provisions on the 11th of April 1709, two days after the ship sailed from that port to Lisbon. We don't undertake to make any certain computation of the loss to the public on this head. But supposing a fifth only of the provisions to have been sold, (and Mr. Essex hath deposed, That he believed a much larger proportion of beer, and a fifth part at least, of all other species have been sold or compounded for with the agents or storekeepers) it amounts in ten years to more than 500,000*l.* For, by a medium of the prices paid for provisions during that time, the prime cost hath been 34 per cent. exclusive of the charges of management, more than is allowed to pursers, when they are creditors on their balance, which are paid by bills in course without interest. This practice is so strictly forbidden and provided against with so much caution, both in the instructions to the officers, employed in the Victualling, and on board the fleet, that it could not have continued without a combination amongst them. And we apprehend no new method can be proposed to prevent such abuses for the future, unless it should be thought adviseable to make it as criminal, for pursers to sell provisions, as to embezzle any other of her majesty's stores. These frauds which have been so universally committed by the pursers and officers of the Victualling must have been detected, or in a great measure restrained, if the pursers accounts had been duly required, and well examined. But so much hath this duty been neglected, that, when we first went upon this in-

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quiry, we found the accounts of 140 pursers out of employment, unpassed: some of them more than ten years standing: and of those now employed, a great many have passed no accounts in six or seven years. On the whole, it is submitted, whether in any case it is reasonable to entrust the same officer with the expending money, who is himself the proper check on the expence, or to allow him or appoint another to that purpose? Whether any person ought to have had the disposition of so large a sum, who was not constituted by the Commissioners of the Victualling, and who was under no security for the faithful discharge of his trust, and the answering the sums issued to him? Whether this practice be not censured and condemned by the Resolution of the House of Commons, the 27th of March 1699, That the Victualling any of her majesty's ships, by others than the Victuallers appointed for that service, or their agents, is contrary to the course of the Navy, and may be of ill consequence.

"We have discovered some irregularities in the Commission for Sick and Wounded Seamen. Mr. Povey was made Treasurer in the beginning of the war, and continued to act as such to the time of his death, in 1705, when he left his accounts in great confusion, and they have since been under the management of executors, altogether unacquainted with the transactions of this office. In order therefore to obtain as much light as possible, we required a state of them, not only from his executors, but from the Commissioners; and comparing both returns we find them agree, as to his Receipts from sir Thomas Littleton, which amounted to 135,666*l.* 1*s.* 4*d.* ½. But they differ as to his payments and voluntary charge. These accounts have laid a great while before the auditor, but were not prosecuted till very lately. Besides the money issued to Mr. Povey for the service of this war, he is charged by sir T. Littleton with the sum of 51,281*l.* 5*s.* 4*d.* ½ imprested to him for payment of the Arrears, incurred on the head of Sick and Wounded in the last war. Of this sum his executors declare themselves unable to give any account. But from that, which has been long since exhibited to the auditors and which yet remains unprosecuted, we observe, that Mr. Povey, in receiving and applying this sum, acted under the authority and direction of several minutes of the Treasury, but made a payment nevertheless of 2,000*l.* to the commissioners, their officers, and himself for salaries, &c. contrary to those minutes. That he was to obey the orders of the late commissioners of Sick and Wounded, one of whom was to attend him at every port to keep duplicates, to comptrol his payments, and to be vouchers to his accounts: but it does not appear, that such duplicates were ever kept by the Commissioners, and his accounts stand singly upon the credit of Mr. Povey, without any cheque or oath made of the truth of it. Mr. Savory succeeded Mr. Povey, and his accounts have in part been under our examination. This office hath been negligent in obliging persons to account duly for money imprested to them. Several sums are not yet accounted for, which were imprested in the time of Mr. Povey. Few of the agents abroad have cleared any imprests, and those uncleared on the 19th of September last, amounted to more than 36,000*l.*

"What liberty the Agents may have taken in the application of the money they have been entrusted with; and what detriment the public has received, by suffering Accounts to remain so long unsettled; may in part be collected from those instances. Mr. Griffith, who was employed by the Commissioners in the year 1708, as agent at Port-Mahone, entered into a contract in April 1711, for erecting an Hospital there, without any authority but that of sir John Jennings, then commander of her majesty's fleet in the Mediterranean. Whereas, by his instructions, he was directed, if it should be thought necessary to build an Hospital, to send over a plan with an estimate of the Charge to the Commissioners, in order to be laid before the Lords of the Admiralty for their approbation. The expence of building this Hospital, as charged in Mr. Griffith's Account, and for which he craves an allowance, is 3,600*l.* It is alledged, in sir John Jennings's order, that her majesty's former Hospital in this Port was inconveniently situated. But we cannot take that to be a ground sufficient for his assuming a power to engage the public credit; especially when a more regular method had been prescribed by the agent's instructions, and when a Treaty of Peace was not actually commenced, in which it could not be known, that a cession of this island would be made to the crown of Great-Britain. Several sums have been issued to one Stanley, a messenger belonging to this office, from the 5th of Oct. 1706, to the 19th July 1712, amounting to 6,430*l.* The account of which appearing very extraordinary and irregular in many instances, we examined him on oath, and find, that he has paid 1,949*l.* 2*s.* 9½*d.* for the taxes laid on the salaries of the Commissioners and other persons belonging to the office: That he charged this sum by order of the Commissioners, in his accounts of the incident expences of the office, under articles of different denominations, as postage of letters, conduct-money, &c. That, in the account of his disbursements for the half year ending at Michaelmas 1712, (which was passed by the Commissioners) he had in like manner included 104*l.* though not then paid, for the taxes of that half year. The Commissioners owned this to be true, and endeavoured to excuse it, by alledging, that they had presented a memorial to the late Treasurer to get an allowance for the taxes on their salaries, and that he had promised to represent their request to the queen. But they did not pretend, that they had obtained any warrant or authority for what they have done. Nor have we received satisfaction from them why Stanley was not required to account for any part of this sum of 6,430*l.* till July last:

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Nor why his Accounts were then passed in so extraordinary a manner, and, as we have reason to believe, without vouchers; for he could not, when required of us, produce a voucher for any payment; and Dr. Lawrence (one of the three, whose names are subscribed to the perfect bills made out to clear these imprests) hath deposed, That his name signed to several of those bills was not writ with his own hand, that he gave leave, in some cases, when he should be absent, to have his name put to papers for carrying on the business of the office, where more Commissioners hands were necessary than were present, which is contrary to the 19th Article of the instructions given to this Commission, whereby it is provided, that no payment shall be made without the authority of three Commissioners at least. The same Article directs them in making out bills, to number and assign them for payment in course, according to the method of the navy. But it appears that no such course has been observed, and that they have taken upon them a discretionary power. The ill use that has been made of this power, and the liberty that has been taken to give undue preference in payments, have so plainly appeared, that no office ought to be entrusted with the exercise of it. The Charge which the government has been put to in transporting British prisoners, is another instance of mismanagement, and the whole sum paid by virtue of the several contracts, or for extraordinaries, hath been a loss to the public. For this service might have been performed for the pay allowed to the contractors by the French for transporting their prisoners. By an account of four voyages which captain Robert Masters laid before us, and attested, it appears, that the contractors received for 1,661 French prisoners transported to France, 164,610 livres, amounting, at 15*d.* per livre, to 1,038*l.* 2*s.* 6*d.* besides the pay for 2,044 English prisoners brought back, and that they paid the said masters, who performed these four voyages, but 669*l.* 1*s.* 11*d.* Mr. Sikes, a merchant of Dartmouth, offered in April 1710, to bring back the British prisoners for the allowance given by the French, without any other pay or demands for extraordinaries, demurrage only excepted. But this proposal was rejected by the Commissioners, and Mr. Pearce was continued. He is still employed with an allowance of 2*s.* 6*d.* per head, notwithstanding frequent complaints have been made against him, and so fully proved to the Commissioners, that we find in the minutes of their proceedings on the 29th June 1709, a Resolution in these words, 'That it does appear there have been Negligences and Mismanagements in the service of transportation of prisoners.' After this Resolution, the Commissioners entered into a new agreement with Mr. Pearce, dated the 13th Oct. 1703, and allowed him for demurrage 50*s.* a day for 100 ton, and so, pro rata, to commence 14 days after the ship was ready to sail. Which is proved to have been an extravagant rate by a Charter-Party made between captain Masters and Mr. Pearce; for the Southampton transport, burthen 100 ton, whereby the Captain was to have but 20*s.* a day for demurrage. One great cause of the ill management in this part of the service, as also of the indulgence to Mr. Pearce, hath been in some measure lately explained to us, by the evidence of Mr. Mitchel, and of Mr. Pearce himself; wherein it appears, that Wm. Churchil, esq. when a Commissioner, procured contracts in their names from the board, and, by a secret agreement with them, was admitted into half the profit of each contract. Mr. Mitchel deposeth, that, on making a contract with the Commissioners for Sick and Wounded Seamen, Wm. Churchil, esq. one of the Commissioners (who had recommended him to the board) did agree with the said Mitchel to reserve half the profit for his, or some unknown person's use; that he hath received what was due for the service performed, pursuant to the said Contract, and looks upon himself accountable, by this private, agreement for half the profit. Mr. Pearce deposeth, that, when he first entered into a contract (which is still continued, with the Commissioners for Sick and Wounded Seamen, he agreed with his brother-in-law, Wm. Churchil, esq. then a Commissioner, to be a sharer in the profit and loss arising from the said contract, that he and Mr. Churchil borrowed 2,000*l.* to carry on this service, for which they are jointly bound; that the Accounts are not yet made up, but that he hath paid Mr. Churchil about 200*l.* as part of his share of the said contract.

"Both these contracts have been prejudicial to the government. Mr. Mitchel was discarded, because the terms of his were declared too high to be continued, Mr. Pearce was introduced indeed on pretence of frugality, and making a better bargain; but it is evident, by what hath been already said, that even this better bargain hath been of no advantage. For since it was made, the service hath been ill performed, and methods used to advance Mr. Pearce's profit beyond what was at first intended. On the 16th of October 1707, he made a groundless demand for losses; whereupon the Commissioners (Mr. Churchil being present) came to a resolution to increase his pay from 2*s.* 6*d.* to 5*s.* per head for English prisoners; which will never pass for an instance of frugality and good economy in this office. But what seems to concern Mr. Churchil in these contracts, may be reduced to this single question, Whether a person entrusted by her majesty to make contracts of the public, can be a private partner in such contracts, without a breach of his trust.

"We have received a complaint from captain Robert Masters, relating to Mr. Mitchel's contract, which we cannot pass over in silence. The substance of it is, that, pursuant to two orders from the Commissioners, dated the 17th of August, and 14th of October 1704, he carried French prisoners from Southampton to St. Maloes, and brought back 680 English prisoners, for whom, at the rates then allowed,

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he ought to have received 340*l.* That he performed this service at his own expence, without being under agreement with any person; that, after performing it, he was refused payment by the Commissioners, being told at first that the money was issued to Mr. Churchil, one of the Commissioners; and afterwards, that it was paid to Mr. Mitchel. The Commissioners, in answer to this complaint, declared, that, notwithstanding the sailing orders were directed to captain Masters, they never contracted with him for the performance of that service; that he had been recommended to them by Mr. Churchil, or Mr. Mitchel, and that they took him to be employed by one of them. Mr. Mitchel, conformable to the opinion of the Commissioners, swears that he employed captain Masters, and received the money for the voyages performed by him. But what countenances captain Masters's pretensions in this case, is, that, at the time when he performed the service from Southampton to St. Maloes, Mr. Mitchel was not under contract for that port, but only from Dover to Calais; that no agreement hath been produced to prove him an agent to Mr. Churchil, or Mr. Mitchel, and therefore the money due on this account could not regularly be issued to either of them, unless some secret covenants have been entered into, which do not yet appear to your Commissioners.

"Since these facts were drawn up and stated, we received a letter on the 7th of March last, from Mr. Pearce, endeavouring to soften his evidence; which is here inserted, that nothing in favour of the person mentioned in the Deposition may seem to be concealed:

'Honourable Gentlemen,

'When I attended you under a surprize, and 'shocked by my weakness, I know not whe-'ther I was rightly understood in my expres-'sions; therefore, recollecting as well as I can, 'what I then signed, beg leave to explain my-'self on some of the questions your honours 'were pleased to ask me, viz. Whether any 'person was concerned with me in the service 'of transporting prisoners, and in what year I 'made my contract? to which I answered 'plainly, and desired to be understood, that, 'when I entered on the transport business, it 'was entirely my own right, and under no ob-'ligation of partnership; the French, making 'then good payment, enabled me to carry on 'the service without being obliged to any per-'son for money; but, after some years, they 'entirely put a stop to their payments, and I 'found the service wanted more money to 'carry it on, than I was able to raise, I hav-'ing agreed for 2*s.* 6*d.* for which others had 'always 10*s.* I was forced to apply to my 'brother for assistance, who brought me first 'in, and voluntarily promised to reimburse 'him by the profits of the said service, if any 'such should be, or otherwise, for his kindness 'and assistance in this affair; and I, having 'formerly made use of his money, when I was 'under him as deputy treasurer of the Ord-'nance, and at that time being incapable of 'repaying him, designed to reimburse him in 'this manner; and the 200*l.* mentioned in my 'affidavit, though intended by me as part of 'such money as should arise from the said 'service, I never acquainted him with, there 'being great sums due from France on that 'account, and the state of the profit and loss 'could not possibly be made till the remit-'tances be procured, and the debts owing on 'that head are paid off. I am, &c.

JOHN PEARCE.'

"We will not trouble the House with any reflections on this Letter, only that it is very extraordinary Mr. Pearce could not recollect his thoughts under a month's time, and that your Commissioners were so far from taking his evidence by surprize (as is suggested) that they desired him, after he had freely and voluntarily given it, to settle and adjust the deposition in his own manner, which he accordingly did, before he signed it.

"Your Commissioners further represent, That the exposing to sale offices, relating to the management of the revenue of the kingdom, is a practice against law, and done in defiance of her majesty's repeated declarations. Two instances of which have been proved to us by the oaths of the very persons concerned.

"The first is this: Henry Meriton, esq. in 1705, treated with Mr. Brydges, then Auditor of the Imprests, for the purchase of his office, and agreed to give him 4,000*l.* for it. After this agreement, he applied to the lord Godolphin, then Lord Treasurer, for his approbation. His lordship proposed to make him Commissioner of Customs, or Cashier of the Excise, in consideration of the 4,000*l.* he was to pay to Mr. Brydges. But he absolutely refused the first, and was with difficulty brought to accept the latter office, on so hard terms as he thought, because it was to be given during pleasure only. However, being persuaded by sir William Scawen, whom he had consulted and employed in this matter, to rely on the lord Godolphin's honour, and promised, that he should not be displaced, he paid 4,000*l.* to Mr. Brydges. Whereupon Mr. Maynwaring was made Auditor of the Imprests. Mr. Hall, Cashier of the Excise, removed from that employment to be Commissioner of the Customs, and Mr. Meriton made Cashier of the Excise. By which it is evident, That the lord Godolphin was not only privy to this bargain and sale, but negociated it. However, your Commissioners examined Mr. Maynwaring himself on oath, and he deposeth that his lordship transacted the whole matter without his knowledge, but that he heard a sum of money was given to Mr. Brydges, on his resigning his office. As a further confirmation of this, when Mr. Meriton was dismissed in 1710, from being Cashier of the Excise, he remonstrated to the lord Godolphin, told him he could not sit down with the loss of 4,000*l.* and insisted on his lordship's promise of continuing him in his place. His lordship apprehending himself under an obligation to reimburse him,

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(as he was pleased to say for his own sake) means were found, on making colonel Sidney, Comptroller, and Mr. Pauncefort Cashier of the Excise, to raise 4,000*l.* for Mr. Meriton, by a cross sale of those offices.

" The second instance relates to Mr. George Hutchinson, who hath also declared on oath, That he bargained with the lord Wharton for 1,000*l.* if he could make him Register of the Seizures; that his lordship did accordingly obtain that office for him from the lord Godolphin, then Lord High Treasurer; That, in consideration thereof, and pursuant to his bargain, he paid his lordship 1,000*l.* on his admission into the place, which he now enjoys. We cannot dismiss this Article, without observing in general, That the selling offices belonging to the revenue, is not only a violation of the law, and a contempt of her majesty's declarations in council, as hath been said, but it may be attended with the greatest inconveniences, and every instance of it will naturally produce some prejudice to the public. For those who sell, will have more regard to the sums they are to receive, than to the qualifications of the persons that buy. And those who buy, will prefer the care of reimbursing themselves, to that of performing the duty of their offices. But whether either of these assertions have proved true, in the cases now mentioned, your Commissioners pretend not to affirm. The earl of Godolphin being dead since Mr. Meriton's case came before us, we would not appear too solicitous in endeavouring to prove this, or any other instance of his management, a breach of the high trust reposed in him. Which, however, we cannot apprehend a reason sufficient for us to conceal facts from the House, otherwise deserving your consideration. We likewise forbear making any particular observations on Mr. Hutchinson's case; or presuming to determine, whether it is an aggravation of it, that the lord Wharton, when he received the sum above-mentioned, was a privy counsellor, and enjoyed other places of great trust under her majesty. But we must inform the House, that Mr. Hutchinson did on the 10th of March last (near five months after the time his deposition was taken) come to your Commissioners, and presented the following Narrative: which we lay before you, being offered at his lordship's request, and therefore we must suppose thought material.

' I never had any acquaintance with, or personal knowledge of the lord Wharton, or had ever spoken to him, till I was advised by a friend to apply to him by the means of the lady Lockhart, his lordship's sister, to whom I made my proposition, and a promise of a present, if by her I could be recommended to lord Wharton her brother, and by him to the Lord Treasurer to have leave for Mr. John Earl, my predecessor, to resign his office to me; and when I was by her ladyship so recommended to lord Wharton, her ladyship told me, that his lordship was very unwilling to meddle with any thing of that kind; and that I must not expect that his lordship would make any steps in it, unless he found by the Lord Treasurer that I was very capable and fit for the said employment.—Whilst this affair was thus transacting, the said Mr. John Earl died, upon which I told her ladyship, I could and would make her ladyship a better present, if her ladyship could prevail that I might succeed the said Mr. John Earl; her ladyship then gave me a letter of recommendation to lord Wharton, who was then at New-Market, and when I came there, and was introduced to the Lord Treasurer, his lordship was pleased to say, that for my own sake and my father's, and upon lord Wharton's recommendation, his lordship was willing to prefer me to that employment. When I had thus obtained his lordship's promise, the lord Wharton, being afterwards returned to town, told me, that, for some reasons, he did not think proper to put the money into her ladyship's hands, nor make the bills payable to her, and directed me to put the money into a goldsmith's hands, which I did, and made the notes payable to myself, and endorsed them; and afterwards delivered them to a person his lordship (who was then gone into the country) by his letter appointed to receive them. And I always apprehended, from what my friend said, who introduced me to lady Lockhart, and likewise I had heard his lordship say, that the present I made was designed for the benefit and advantage of the lady Lockhart, and her family, to whom I first made (by my friend) the proposition and promise of it, and for whose sake his lordship undertook to do me that favour. These are, as far as I can recollect, all the circumstances of the manner of obtaining my office.

GEO. HUTCHINSON.'

' Memorandum.

' That the above written paper was drawn by the direction of lord Wharton, and several passages which I had forgot, and his lordship put me in mind of, were added at his lordship's instance; particularly that relating to the lady Lockhart, that the whole thousand pounds were paid to one Mr. Lee (by two 500*l.* notes) by his lordship's order; that before his lordship did obtain the said employment for me, I did acquaint his lordship I would give a thousand pounds for it.

March 10, 1712-13. ' GEO. HUTCHINSON.'

" This Memorandum prevents our Remarks, and though the abovewritten account supplies some circumstances, yet we think the fact in no sort essentially varied from the first state of it.

" As the disposal of public Offices for money is not allowable, so neither can the exemption of any of them from the payment of taxes imposed and specified by parliament, admit of the least justification. However, a considerable instance thereof hath also occurred to us. Before the year 1705, the officers of the household within the palaces of Whitehall and St. James's were annually taxed at 10,686*l.* 5*s.* 4*d.* But in that year, the parliament taking it into

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consideration, that this tax was too low, and that those officers ought to contribute their proportion towards carrying on the war, as well as the landed property of England, it was advanced to the sum of 30,754*l.* 6*s.* 3*d.* which hath been continued every year since. Some time after, Mr. Hume, one of the commissioners for those palaces, being desired to attend the treasury, brought from thence an instruction, written in characters, which he interpreted to be a rule, whereby all persons having salaries of 100*l.* per annum, or upwards, should be rated at 3*s.* per pound; of between 100*l.* and 40*l.* per annum at 2*s.* 6*d.* per pound, of 40*l.* per annum, and under, at 1*s.* 4*d.* per pound. Pursuant to which, a draught of an assessment, amounting only to 19,403*l.* 8*s.* was prepared and laid before the Lord Treasurer; from whom it was returned to the commissioners with a minute on the back of the assessment-roll, entered by Mr. Taylor of the Treasury, by direction of his lordship, in these words, viz. The commissioners to proceed in making the assessment accordingly. An assessment was made conformable to this minute for that year, and continued for the following years, 1706, 1707, 1708, 1709, 1710. But the commissioners were threatened with process in the year 1708, for not raising the whole sum of 30,754*l.* 6*s.* 3*d.* charged for the year 1705, and 1706; and they applied to the late Lord Treasurer, who ordered a stay of it. On the 25th of March 1710, the arrear was swelled to the sum of 56,754*l.* 11*s.* 3*d.* and the commissioners several times urged his lordship to satisfy it. Which, however, was never done during this management of the Treasury. But this matter has been since represented there with better success. For 1,000*l.* hath been actually paid to the receiver-general in money, and a talley is struck on tin for 2,000*l.* more, towards making good the deficiency; and we have ground to believe, that in a short time, care will be taken to discharge the rest.

"The better to enable the commissioners to raise the full sum of 30,764*l.* 6*s.* 3*d.* for the years 1711, and 1712, the payment of several large pensions have been transferred from the post-office to Mr. Compton's, which being assessed at 4*s. per* pound, and the other pensions payable there, rated by the same rule as the rest of the queen's family are, the assessment now completely answers the tax.

"The observations arising from this case so stated and sworn before your commissioners, are, That, of all the deficiencies, which have happened in any of the taxes since the Revolution, this we believe is the only one, that hath been openly allowed under colour of any authority, but of parliament, and that hath received a sanction from the Treasury. That this order was an attempt upon the Commons, privilege of raising money, and must either be intended to defraud the public or to deceive the Commissioners. If it was to be taken as a sufficient foundation to justify the assessment, then the government was to be defrauded by suppressing part of the tax. If it was not, then the Commissioners were deceived by being encouraged to act in obedience to a fictitious authority; whereby they subjected themselves to a prosecution, and their estates to an extent. That the Lord Treasurer was the last person, who in prudence or justice ought to have consented to such a deficiency, or to have assumed a power of comptrolling an act for levying money; since, by virtue of his office, he was to be entrusted with it, and to use all possible means, that every fund should answer the sum, for which it was given by parliament. That the directing a stay of process against the Commissioners for the arrears, due on this tax, as it was an impediment to public justice, and a vindication of this order, in itself illegal, and of dangerous consequence; so it was a continuance and an aggravation of the first mismanagement. That the care, which hath been lately taken towards satisfying the past deficiency, and to answer the full tax for the future, is a plain condemnation of this order; and a proof, that, if the same endeavours had been formerly used, there would have been no necessity (as is pretended) of complying with it. If this precedent had been allowed, the same indulgence might, with equal reason, have been extended to any other part of Great-Britain.

"Your Commissioners, in examining the accounts of her majesty's Great Wardrobe, observe, That more than two thirds of those persons, who receive constant pay on this establishment, were never bred to the trades they pretend to, nor ever did any work in the office. That the master and his deputy, who are the only checks on the accounts, did, in the names of their servants, furnish great quantities of goods at much higher prices than they might have been bought of tradesmen. That the money being received from the treasurer by the master and his agents in gross sums, and not for any particular debt or service, there is always room left for them, without comptrol, to postpone others, and prefer themselves, to the great prejudice of the credit of the office. That 4, 5, and sometimes 6 per cent. is paid to the deputy by the tradesmen, who are admitted to deal with this office, on the receipt of their money. Which is one reason, amongst many, why the prices are 20 or 30, and sometimes 40 per cent. dearer than those tradesmen would have furnished their goods to other customers, as is acknowledged by several of them. These practices are encouraged by the method of passing the accounts of this office, which is very different from that of any other. For, if the master be a peer, his declaration on honour, if he be not a peer, his or his deputy's oath is, without producing any voucher or receipt, an authority to the auditor. But what means are proper to be taken for the regulation thereof, is submitted by your Commissioners.

"We mentioned in our last Report, the losses then occasioned by the Insolvency of

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Bonds taken for payment of her majesty's Customs. But finding it a growing evil, and such as, if not remedied, may in time become a great diminution of the best branch of the revenue, we think it our duty again to represent a state of them. There remained on the 31st of Jan., 1712, besides those delivered over to the queen's remembrancer;

In the hands of the	£.	s.	d.
Receivers General,	100,795	15	3 ½
The Solicitor,	110,141	2	11 ½
Total	210,136	18	3 ½

"This large Debt is supposed to be entirely lost to the public. But whether it hath arisen from particular indulgencies, or from a general neglect of prosecuting the bonds when they became due, is not easy to judge. The receiver-general hath deposed, That the Commissioners of Customs have not, since the year 1710, directed him to deliver over any bonds to the solicitor; which hath some appearance of neglect. But the Commissioners alledge, that they ordered him, and their solicitor, to write quickening letters to the merchants, and to put bonds in suit as they became due. They add, it is their opinion, that rigorous prosecutions might be of more prejudice than service, and would rather have increased than lessened this debt. Besides this forbearance of prosecuting hazardous bonds, there hath been a neglect in receiving the whole money due on such as were good. The principal sum 59,990*l.* due on bonds in the receiver-general's hands, and the principal sum of 262,666*l.* 4*s.* 4*d.* due on bonds in the solicitor's hands, have been paid, but not with interest: Whereas the interest for the first was computed the 13th of September last, at 7,965*l.* 5*s.* 3*d.* And for the second, the 15th of December last at 5,500*l.* There hath been no reason offered to your Commissioners, why so considerable a sum for interest should be remitted by the public. For the receiver-general hath declared on oath, that the principal was not paid within the time limited by the act for continuing the additional duty of tonnage and poundage, &c. nor upon any representation, made in favour of such debtors, by the Commissioners of the Customs to the Treasury, as the act directs. Her majesty's customs have been further prejudiced by suffering the captains of men of war, contrary to their instructions, to take merchants goods on board in the plantations, and other remote places; for her majesty's ships not being liable to the same checques as merchant ships are, they frequently land great quantities as goods without paying any duty. This practice (which cannot be cured unless the captains be absolutely restrained from carrying any sort of merchandizes whatsoever) is a discouragement to the owners of merchant ships, a loss sometimes of those under their convoy, and often a hazard of the men of war themselves.

"Though the Land-Revenue of the crown in England, hath been extremely reduced by the sale of fee-farm rents, and by many exorbitant Grants since the Revolution; yet it is still too considerable an article to be omitted by your Commissioners; and we take leave to remark, That we find in our examination of the general incomes and issues of the exchequer, That the sums there brought to account of late years are much smaller than would have arisen even from what remains of this Revenue, if due care have been taken by those entrusted with the management of it. For all the payments which have been made on this head, for 11 years last past, in the whole amount to but 30,557*l.* 18*s.* 10*d.* We are unable to offer any perfect state of this Revenue. The papers and rolls relating to it, have been kept in so little order by the auditors, and several receivers are so uncertainly charged, (some with rents, which have been lost or unknown for many years, others with such as have been sold or granted away) that nothing to be relied on can be collected from the accounts as they now stand. The methods for the regulation and collection of this Revenue are plainly laid down, in several acts of parliament, and the neglect of them hath been the cause of the confusion we find in the accounts of those concerned in it."

The Substance of the Second Report.] "Your Commissioners humbly hope, by what is offered in the preceding Report, that they will appear to have taken some pains in examining the accounts of the Army, which they have applied themselves more immediately to, not only as they were obliged to use all possible endeavours to detect any Irregularities or Mismanagements therein, but in order to enable themselves to determine the debts due from the government on this head. As soon therefore as the act passed, appointing us commissioners for that purpose, we directed the paymaster-general to lay before us, States of the several regiments under their care; and in the first place, of those which were reduced or disbanded. We likewise required the colonels and agents to exhibit accounts of all sums of money received by them, for the use of their respective regiments. Mr. Howe, in return to our precept, brought in accounts of some regiments; but in the examination thereof, we found they had reference to other accounts, (whilst those regiments were in Mr. Brydges's pay) which are unadjusted. Mr. Brydges exhibited also to us, some time since, the state of several regiments: but alledged there were so many difficulties in their accounts, that he could not then settle the credit of any one. The colonels and agents have returned, That, till the credits of their respective regiments are fixed and ascertained by the pay-masters, they cannot pretend to offer any accounts. However, we have employed our time in hearing the Claims and Complaints of several persons relating to these accounts, which, as they have been very numerous, so they will facilitate our examinations, when the pay-master shall be prepared to lay their accounts before us, in such manner, as will be a proper founda-

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tion for us to determine upon. Mr. Brydges hath been frequently pressed to attest the credit of the regiments under his care, which are the most considerable part of the army; But, being unable to remove the difficulties first complained of, he hath lately delivered on oath a paper entitled, 'Reasons why the accounts 'for the regiments under the care of payment 'of the hon. James Brydges esq.; pay-master 'general of her majesty's forces, acting in con-'junction with the Allies, could not be closed 'and attested, pursuant to the precepts of the 'honourable the commissioners appointed by 'parliament for taking, examining, and deter-'mining the debts due to the army, &c. dated 'March 4, 1712-13.' Now whether these Reasons are admitted as a justification of the pay-master or otherwise, your Commissioners apprehend they are a sufficient proof, that it was not in their power to proceed farther than they have done. And that if they had presumed to form any certificates on this confused and uncertain state of the accounts of the army, they must necessarily have been guilty of the highest injustice, as well as a direct breach of the act which constitutes their commission. For the House will be pleased to consider, they are tied down by that act to determine only according to the establishments. (Signed) George Lockhart, Henry Bertie, Salway Winnington, Francis Annesly, Thomas Lister, William Shippen, Henry Carter."

Bill to continue the Commissioners of the Public Accounts.] Mr. Shippen having read these two Reports in his place, and presented the said Statements and Reports to the House, the House resolved to take the same into consideration the Saturday following, and ordered a bill to be brought in, 'to revive and continue the Act, for taking, examining and stating the Public Accounts of the kingdom, and also to continue the act for appointing commissioners to take, examine, and determine the debt due to the army, transport-service, and sick and wounded.'

After the Addresses of thanks for the Peace, and a vote for a Supply, the Commons, in complaisance to the court, proceeded to the stigmatizing of those that delighted in war. To this end, Mr. Shippen made a Report of mismanagements from the Committee, to examine the debts due to the Army. They passed a slight censure on William Churchill, a member of their House, for being, when a commissioner for sick and wounded, a partner in contracts relating to that office. They also made an attempt to fasten a misdemeanor on the earl of Wharton, for taking 1,000*l.* of one Hutchinson for procuring him the office of register of seizures in the customs, but it was dropped, because it was done before the last act of indemnity.

The Peace proclaimed.] On the 28th of April the ratifications of the Treaties of Peace and Commerce were exchanged at Utrecht between the ministers of Great-Britain and France; and, being brought to London, by Mr. Ayerst, chaplain and secretary to the earl of Strafford, the queen on the 4th of May, the same day of the month on which the war had been proclaimed eleven years before, signed a Proclamation for publishing the Peace; which was performed the next day with the usual ceremonies. The ratifications of the Treaties between France and the States-General were also to have been exchanged on the 29th of April; but upon an unexpected difficulty about the elector of Bavaria's renunciation of the Spanish Netherlands (yielded to him by king Philip) which the Dutch ministers alledged not to be in due form, that exchange was deferred till the 12th of May,

Dr. Sacheverel desired to preach before the Commons.] May 1. The Commons ordered "That the Rev. Dr. Henry Sacheverel be desired to preach before this House, at St. Margaret's Westminster, the 29th instant (being the day on which the nation commemorates the Restoration of the royal family:)" which Vote occasioned various speculations and reflections *.

The Queen's Message to the Commons respecting the Treaties of Peace and Commerce.] May 8. The Chancellor of the Exchequer presented the following Message from her majesty:

"ANNE *R.*

"As it is the undoubted prerogative of the crown to make Peace and War, I have ratified the Treaties of Peace and Commerce with

* "The sentence of the House of Lords, by which Dr. Sacheverel was forbid to preach during the space of three years, expiring on the 23d of March, that day was celebrated in London, and in several parts of the kingdom, with extraordinary rejoicings. The Sunday following in the afternoon the doctor preached the first time at his church of St. Saviours, where a great multitude thronged to hear or at least to see him, expressing their joy at his returning to the exercise of his function. His subject was the duty of praying for our enemies, from St. Luke 23. 34. 'Father forgive them, for they know not what they do.' In his sermon he made a tacit but obvious parallel between his sufferings and those of Jesus Christ. Not long after, the House of Commons, to shew their dislike of his former prosecution and censure, desired him to preach before them at St. Mergaret's Westminster, on the 29th of May, being the restoration day; which he did, and had the thanks of the House for his sermon. Nor was the court backward in rewarding his late service: for, the rectorship of St. Andrew's Holborn, becoming vacant, he was promoted to that rich benefice." Tindal.

"April 2. I went to Lord Treasurer's, at six; where I found Dr. Sacheverel, who told us that the bookseller had given him 100*l.* for his sermon preached last Sunday, and intended to print 30,000 I believe he will be confoundedly bit, and will hardly sell above half." Swift's Journal.

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France, which had been signed by my order, and have concluded a Treaty with Spain, which will be signed at Utrecht, as soon as the Spanish ministers are arrived there.—I determined, from the first, on this extraordinary occasion, to communicate these Treaties to my parliament, and have therefore now ordered them to be laid before this House."

The Treaty of Utrecht laid before the Parliament.] Mr. Chancellor of the Exchequer presented to the House (pursuant to the said Message) several Treaties, with a List of them, viz. a Treaty of Peace and Friendship between Great-Britain and France; a Treaty of Commerce and Navigation between Great-Britain and France; an Act declaring the particulars referred by the 9th Article of the Treaty of Commerce and Navigation between Great-Britain and France, to the discussion of Commissioners; an Act explaining the general Terms of the 9th Article of the Treaty of Commerce and Navigation between Great-Britain and France, relating to the four species excepted out of the Tariff of 1664; a Treaty of Peace and Friendship between Great-Britain and Spain; and translations of the several Treaties and Acts above mentioned.

Substance of the Treaties.] By the Treaty of Peace, the French king was bound to give neither harbour nor assistance to the Pretender, but acknowledged the Queen's title and the Protestant Succession, as it was settled by several acts of parliament: Dunkirk was to be razed, in a time limited, within five months, after the ratifications; but that was not to be begun, till an Equivalent for it was put into the hands of France. Newfoundland, Hudson's-Bay, and St. Christopher's were to be given to England; but Cape Breton was to be left to the French, with a liberty to dry their fish on Newfoundland: this was the main substance of the articles of Peace.* The Treaty of Commerce settled a free trade, according to the Tariff in the year 1664, excepting some commodities, that were subjected to a new Tariff in the year 1699, which was so high, that it amounted to a prohibition: all the productions of France were to come into England under no other duties, but those that were laid on the same productions from other countries; and, when this was settled, then commissaries were to be sent to London, to agree and adjust all matters relating to trade; the Treaty of Commerce with Spain was not yet finished. As for the allies, Portugal and Savoy were satisfied; the emperor was to have the duchy of Milan, the kingdom of Naples, and the Spanish Netherlands: Sicily was to be given to the duke of Savoy, with the title of king: and Sardinia, with the same title, was to be given to the elector of Bavaria, in lieu of his losses: the States were to deliver up Lisle, and the little places about it: and, besides the places of which they were already possessed, they were to have Namur, Charleroy, Luxemburg, Ypres, and Newport: the king of Prussia was to have the Upper Guelder, in lieu of Orange, and the other estates, which the family had in Franche Comté. The emperor was to have time to the 1st of June, to declare his accepting it.

Debate in the Commons on the 8th and 9th Articles of the Treaty of Commerce.] The Treaties being read, a day was appointed to consider of the Treaty of Commerce, particularly the 8th and 9th Articles; by the eighth all the subjects of Great-Britain and France, were to enjoy, as to all duties and impositions whatever, the same privileges, which any other nation, the most favoured, did then, or shall hereafter enjoy. By the other Article, a law was to be made within two months in Great-Britain, that no more customs be paid for goods brought from France than what are payable for the like goods imported from any other country in Europe. These were articles very disadvantageous to England. During king Charles the 2nd's reign, our trade with France was often and loudly complained of, as very prejudicial to the nation; there was a commission appointed in 1674, to adjust the conditions of our Commerce with that nation; and then it appeared, in a scheme that was prepared by very able merchants, that we lost every year a million of money by our trade thither. This was then so well received, that the scheme was entered into the Journals of both Houses of parliament, and into the books of the Custom-House: but the court at that time favoured the interests of France so much, preferably to their own, that the trade went still on till the year 1678, when the parliament laid, upon all French commodities, such a duty, as amounted to a prohibition, and was to last for 3 years, and to the end of the next session of parliament; at the end of the 3 years, Charles called no more parliaments; and that act was repealed in James's parliament: but, during the whole last war, high duties were laid on all the productions and manufactures of France; which by this treaty were to be no higher charged, than the same productions from other countries. It was said that, if we had been as often beat by

* "It was observed on these articles: as to Newfoundland, it was thought that the French settling at Cape Breton, instead of Placentia, would be of great advantage to them with relation to the fishery, which is the only thing that makes settlements in those parts of any value. The English have always pretended, that, the first discovery of Newfoundland being made in Henry the 7th's time, the right to it was in the crown of England. The French had leave given them, in king Charles the 1st's time, to fish there, paying tribute, as an acknowledgment of that licence: it is true, they carried this much further, during the civil wars; and this grew to a much greater height in the reign of king Charles the 2d: but, in king William's time, an act of parliament passed, asserting the right of the crown to Newfoundland, having open the trade thither to all the subjects of Great-Britain, with a positive and constant exclusion of all aliens and foreigners." Burnet.

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the French, as they had been by us, this would have been thought a very hard treaty; and, if the articles of our commerce had been settled, before the duke of Ormond was ordered to separate his troops from the confederates, the French could not have pretended to draw us into such terms, as they had insisted on since that time, because we put ourselves into their power. We were engaged by our treaty with Portugal, that their wines should be charged a third part lower than the French wines; but, if the duties were, according to this treaty of commerce, to be made equal, then, considering the difference of freight, which is more than double from Portugal, the French wines would be much cheaper; and, the nation generally liking them better, by this means we should not only break our treaties with Portugal, but if we did not take off their wines, we must lose their trade, which was at present the most advantageous that we drove any where: for, besides a great vent of our manufactures, we brought over yearly great returns of gold from thence; four, five and six hundred thousand pounds a year. We had brought the silk manufactures here to so great perfection, that about 300,000 people were maintained by it. For carrying this on, we brought great quantities of silk from Italy and Turkey, by which people in those countries came to take off as great quantities of our manufactures: so that our demand for silk had opened good markets for our woollen goods abroad, which must fail, if our manufacture of silk at home should be lost: which, if once we gave a free vent for silk stuffs from France among us, must soon be the case; since the cheapness of provisions and of labour in France, would enable the French to undersell us, even at our own markets. Our linen and paper manufactures would likewise be ruined by a free importation of the same goods from France. *

Notwithstanding all this, a motion was made on the day appointed, May 14, to bring in a Bill to make good the 8th and 9th Articles of the Treaty of Commerce with France. A debate arose, which lasted till ten in the evening.

Mr. *Arthur Moore*, one of the Commissioners of Trade, and whose skill and knowledge in commercial affairs, the British ministry had chiefly relied on in drawing up the Treaty in question, endeavoured to shew the great advantages, that would accrue to the nation from a free trade with France; and sir James Bateman, sir Thomas Hanmer, sir W. Wyndham, Mr. Chancellor of the Exchequer, Mr. Ward, Mr. Shepherd, and some others, spoke on the same side.

Mr. *Nicholas Lechmere*† endeavoured, on the contrary, to prove, that the trade with France would be very prejudicial to our woollen, silk, and paper manufactories, and to our commerce with Portugal; and he was supported, not only by general Stanhope, Mr. John Smith, Mr. Nathaniel Gould (an eminent merchant, formerly governor of the bank of England) sir Peter King, sir Joseph Jekyll, Mr. Wortley Montague, the lord Castlecomer, and some others of the Whigs; but also by sir George Newland and Mr. Robert Heysham, who had before gone with the court.

Mr. *Moore*, in order to make good his assertion, having enumerated the different sorts of commodities of the growth and manufacture of Great Britain, which the French drew from hence before the two last wars, insinuating, that in all probability they would do the same again for the future, if a free trade with them were set upon an equal foot.

Mr. *Gould* answered him, that he begged the very thing in question; and that, in his opinion, the opening a free trade with France, would rather be highly detrimental to the nation. To make this out, Mr. Gould urged, "That since the Revolution, the state of commerce was entirely changed; and as France had set up, and very much encouraged woollen manufactures, and made shift without several goods, which they drew from hence; so England had learned to be without the product of France, by setting up silk manufactures and paper mills; encouraging the making of all manner of toys, &c. which saved and gained vast sums of money to the nation, and employed an infinite number of artificers, who would be reduced to beggary, if the importation of French goods of the same kind were allowed; because the French had their work done for less money, and consequently could sell their commodities cheaper." He added, "that the most valuable branch of our trade was that to Portugal; the increase of which, of late years, was mainly owing to the great quantities of wines that were imported from thence, and consumed in Great Britain, instead of French wines, by reason of the high duties laid on the latter. But, if these duties were, pursuant to the Treaty of Commerce in question, reduced and made equal with those on Portugal wines, the importation and consumption of the latter would infallibly decrease, and thereby our profitable commerce to Portugal be in danger of being lost." On the other hand,

Sir *William Wyndham* took this occasion to reflect on the late ministry, "who, in his opinion, had let slip the opportunity of making a good Peace, when they had it in their power: but that a time might come, and, he hoped, was not far off, when the mismanagement of the enemies to their country should be animadverted upon. As to our Portugal trade, he said, that, that kingdom would ever have occasion for the woollen manufactures and the corn of England, and consequently be obliged to take off great quantities from hence, as they did before the year 1703, even at a time when

* Tindal.

† "A distinguished lawyer and politician. By George 1 he was made first Solicitor and then Attorney General, and finally advanced to the peerage by the title of baron Lechmere of Evesham. The title, upon his death, in 1727, without issue, became extinct." Noble's Continuation of Granger.

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the court of Portugal had laid high duties on English goods and merchandizes."

General *Stanhope* made hereupon a long speech, wherein, among other things, he said, "That the affair now in question was not a party business; neither did it concern the late or the present ministry, but the whole British nation, and therefore, for his own part, he would freely speak his thoughts about it, with the utmost impartiality. That, the Peace being made, it was now preposterous to say any thing for or against it. But, that as no treaty could bind the Commons of Great-Britain to make any act or deed against their own interest; the only point to be considered was, Whether a free trade with France would be advantageous or no? And that, in order to clear that important matter, it was necessary to consult the merchants and manufacturers who had presented several petitions and representations about it." This was likewise urged by

Mr. *John Smith*, who made a motion for adjourning the debate, and taking the papers before them into consideration. But the main question being put, was carried in the affirmative by a majority of 252 voices against 130. Mr. Speaker having resumed the chair, sir Gilbert Dolben made his report from the Committee, and, after further debate, the Whigs, finding themselves over-powered by the Court-Party, most of them went out of the House; and so it was resolved by above 100 voices against 12 or 13, "That a Bill be brought in, to make effectual the eighth and ninth Articles of the Treaty of commerce and navigation between Great-Britain and France."*

Proceedings on the Malt Bill.] May 18. The Commons ordered several clauses to be inserted in the Malt-bill, and having resolved themselves into a committee of the whole house upon the said bill, made several amendments to it. In this committee, the

* "The Treaties of Peace and Commerce having been published in print, that of Commerce raised such a general clamour, as awakened the whole nation, which before seemed to have been sunk into a lethargy. Several gentlemen, and particularly Mr. Robert Walpole, general Stanhope, sir Theodore Janssen, &c. exerted themselves, and published several excellent pieces, which shewed the advantages of the trade with Italy, Spain, and Portugal, to which nations we constantly exported more than we imported from them, and brought the balance in money; whereas a trade with France would be destructive of our home manufactures, and of our commerce with other nations. These things came to be so well understood, that, even while flattering addresses were coming to court from all parts of England, petitions were sent up from the towns and counties concerned in trade, setting forth the prejudice which they apprehended from this Treaty of Commerce. The Treaty, however, was to be supported at any rate; the persons concerned in making it, either could not, or would not, see the mistakes in it; and the nation was to be convinced, that through their great skill in trade, they had made an excellent Treaty of Commerce. To these ends Daniel de Foe was employed; though, in a weekly paper published some years before, called the Review, he had very often condemned the French trade as detrimental to this kingdom. He undertook, however, the cause now, and published a paper thrice a week, by the title of 'Mercator, or Commerce retrieved: being Considerations on the state of the British trade, particularly as it respects Holland, Hanover, and the Dutch barrier; the trade to and from France; the trade to Portugal, Spain, and the West-Indies, and the fisheries of Newfoundland and Nova Scotia: with other matters and advantages accruing to Great-Britain by the Treaties of Peace and Commerce lately concluded at Utrecht.' In this paper he undertook to prove, that the trade to France, though contrary to all experience, had always been beneficial to this kingdom, and would be so again upon the foot of the treaty. And as he had the art of writing very plausibly, and those, who employed him, and furnished him with materials, had the command of all public papers in the Custom-House; he had it in his power to do a great deal of mischief, especially amongst such, as were unskilled in trade, and at the same time very fond of French wines, which it was then a crime to be against. Several ingenious merchants, of long experience, and well skilled in trade, joined together to contradict the impositions of this writer: they knew he had many heads besides the advantages of public papers to help him; and therefore thought the publication of a joint weekly paper the most feasible way to confute him, and set our trade in a clear light, because they were sensible that it was impossible for any one man to be master of so much experience, as was required to furnish materials from so many different branches of our trade, as would be touched upon in this debate. The paper they published was, in opposition to Daniel de Foe's title, called 'The British Mer-'chant, or Commerce preserved,' and was published twice a week. The person, to whom the public was chiefly obliged for this paper, and who had the greatest hand in it, was Henry Martin, who was afterwards made inspector-general of the exports and imports. He was assisted by sir Charles Cooke, merchant, afterwards made Commissioner of Trade; sir Theodore Janssen, bart. James Milner, Nathaniel Toriano, Joshua Gee, Christopher Haynes, David Martin, merchants; and Charles King, who afterwards collected and reprinted those papers. Lord Halifax and general Stanhope, had likewise a considerable share in the encouragement of this paper, which had so great an effect, that the thoughts of the Whigs about commerce, which, at first, were represented as the result of discontent, and spirit of party, appeared to be the universal sense of all traders." Tindal.

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Scots members represented, That the tax of 6*d.* per bushel of malt would be an insupportable burden to their countrymen, by reason of the vast disproportion between the English and Scots malt, both in goodness and price; almost double the quantity of Scots malt, going to the making drink of equal strength with that made of English malt; and the bushel of malt which in London was sold for 2*s.* 3*d.* not bearing above the third part of that price in Scotland. Upon this and other considerations, the Committee were induced to reduce the Malt-Tax in Scotland to 3*d.* per bushel; but when this Amendment was the next day, together with the other Amendments, reported to the house, the members of the northern counties of England, and the principality of Wales, having for the same reasons alledged by the Scots, insisted on the like abatement of the duty on malt, it was ordered, that the Amendment, and the subsequent Amendments be recommitted.

May 20. The Commons in a grand committee, considered farther of the Malt-bill, made several Amendments to it; and, notwithstanding all the opposition the Scots and their friends could make, it was carried by one single vote only, That the tax on malt should be laid equally in all parts of Great-Britain. On the 21st those Amendments were reported to the house, and it was again proposed that the Scots Malt should pay but half the duty, but it was again carried by a majority of 139 voices against 104 that the Bill, with the Amendments, be engrossed.

May 22. The engrossed bill was read the 3d time, and passed by a majority of 197 against 52, to the great disappointment of the Scots.

The Scots Members of both Houses hold several private Meetings.] The endeavours of the Scots members in the House of Commons for easing their countrymen of part of the Malt-Tax, having proved ineffectual, they had several private meetings with the Scots peers sitting in parliament; and, laying aside all invidious distinctions, consulted together how to redress their Grievances. On the 26th of May they deputed four of their number, viz. the duke of Argyle, the earl of Marr, Mr. Lockhart, and Mr. Cockburn, who, by their order, attended the queen, and by word of mouth, humbly remonstrated to her majesty, That their countrymen bore with great impatience the violation of some Articles of the Act of Union, and that the laying such an insupportable burden as the Malt-Tax upon them, was like to raise their discontents to such a height, as to prompt them to declare the Union dissolved." To this unexpected verbal remonstrance, the queen answered, "This was a precipitate resolution, and she wished they might not have reason to repent it; but, however, she would endeavour to make all things easy." The Scots members being met again the next day, and their Deputies having made their report of her majesty's Answer, it was unanimously agreed, That, before they proceeded further, they should lay their Grievances before the House of Lords.

Debate in the Lords on a Motion for dissolving the Union.] Accordingly, on the 28th of May, after the Lords had adjourned the Debate about the 8th and 9th Articles of the Treaty of Commerce, the earl of Finlater made a motion in the House of Peers, That some day might be appointed to consider the State of the Nation; whereupon the Lords appointed the 1st of June, when all the lords in town were summoned. Between one and two, the debate began, opened by

The Earl of *Finlater*, who represented the Grievances of the Scotish nation, which he reduced to four heads, viz. 1. Their being deprived of a privy-council. 2. The laws of England, in cases of treason, extended to Scotland. 3. The Scots peers being incapable of being made peers of Great-Britain, as it was adjudged and declared in the case of the late duke of Hamilton. And 4. The Scots being subjected to the Malt-tax, which would be the more unsupportable to them now, in that they never bore it during the war, and had reason to reap and enjoy the benefits of Peace: concluding, That, since the Union between the two nations had not those good effects as were expected and hoped from it, when it was made, he therefore moved, That leave might be given to bring in a Bill for dissolving the said Union, and securing the Protestant Succession in the house of Hanover, the queen's prerogative in both kingdoms, and preserving an entire unity and good correspondence between the two kingdoms.

This motion was seconded by the earl of Marr, and opposed by,

The Lord *North and Grey*, who in a long speech, endeavoured to shew that the complaints of the Scots were groundless, and the dissolving of the Union impracticable, not without some reflections on the poverty of the Scotish nation.

The Lord *Eglington* allowed the Scotish nation to be poor, and therefore unable to pay the Malt-tax.

The Lord *North and Grey* replied to him, insisting, That it was nothing but what was agreed by the Treaty of the Union; the 14th article of which imported, that Scotland should not be charged with any Imposition on malt during the war only, * which now was at an end.

The Earl of *Isla* confessed there was such a clause; but that the same Article imported, That seeing it could not be supposed, that the parliament of Great-Britain would ever lay any sorts of burdens upon the united kingdom, but what they should find of necessity, at that time, for the preservation and good of the whole, and with due regard to circumstances, and abilities of every part of the united kingdom, therefore it was agreed, that there should be no further exemption insisted on for any part of the united kingdom, but that the consideration of any exemptions beyond what was already

* See Appendix, p. clxxxviii.

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agreed on in this treaty, should be left to the determination of the parliament of Great-Britain. He urged, that when this treaty was made, the Scots concluded, the parliament of Great-Britain would never go about to lay any imposition that they had reason to believe was burdensome; and having set forth their inability to pay the Malt-tax, concluded, for the earl of Seafield's motion.

The Earl of *Peterborough* endeavoured to shew the impossibility of dissolving the Union. He said, among other things, That he had heard the Union compared to a marriage: that, according to that notion, since it was made, it could not be broke, being made by the greatest power upon earth. That, though sometimes there happened a difference between man and wife, yet it did not presently break the marriage: so, in the like manner, though England, who, in this national marriage, must be supposed to be the husband, might, in some instances, have been unkind to the lady, yet she ought not presently to sue for a divorce, the the rather because she had very much mended her fortune by this match: adding, that the Union was a contract, than which nothing could be more binding.

The Earl of *Isla* answered, That if the Union had the same sanction as marriage, which was an ordinance of God, he should be for observing it as religiously as that, but that he thought there was a great difference.

The Earl of *Peterborough* replied, "He could not tell how it could be more solemn than it was, except they expected it should have come down from Heaven, like the Ten Commandments. Animadverting, in the conclusion, on the Scots, as a people that could never be satisfied; that they would have all the advantages of being united to England, but would pay nothing by their good will: and that they had more money from England than all their estates amounted to in their own country."

The Duke of *Argyle* replied, in a warm Speech; saying, among other things, "That he was by some reflected on as if he was disgusted and had changed sides, but that he despised those persons, as much as he undervalued their judgments. That it was true he had a great hand in making the Union: That the chief reason that moved him to it was the securing the Protestant Succession; but that he was satisfied that might be done as well now, if the Union were dissolved. That he spoke as a peer of England, as well as of Scotland: that he believed in his conscience, it was as much for the interest of England as of Scotland to have it dissolved; and if it were not, he did not expect long to have either property left in Scotland, or liberty in England. He urged, that the tax upon Malt in Scotland was as unequal (though the same as in England) as taxing land by the acre, which would be very unjust, the land being worth 5 or 6*l.* per acre, here about London, and not so many shillings in some parts of the country. That this was the case between the Scots and the English Malt; the latter being worth 3 or 4*s.* the bushel, the other not above 1*s.*: so that if this tax were collected in Scotland, it must be done by a regiment of dragoons."

Some other Scotish Peers said, "That the end of the Union was the cultivating an amity and friendship between the two nations, but it was so far from having that effect, that they were sure the animosities between the two nations, were much greater now than before the Union. That it might easily be proved by many instances, that some persons agreed better when they were asunder, than when together; and for that reason they believed, if the Union were dissolved again, the two nations would be like to be better friends."

The Lord Chief Justice *Trevor* made a vehement speech against it, as a thing hardly to be done.

The *Lord Treasurer* (Oxford) said, "That the Earl of Seafield's motion was no less strange than unexpected; that the Union being made by two distinct parliaments of both kingdoms, he did not see how it could be dissolved, now the two nations were in different circumstances from what they were in when it was made; because the power that made it was no more in being; and nothing could make it void, but the power that created it: concluding, that if the Scots had any grievance to complain of there might be some other method thought to redress them, without proceeding to that extraordinary way of dissolving the Union, which had been made in so solemn a manner, and brought about with so much difficulty at last, after so many fruitless attempts before."

The Earl of *Nottingham* represented the advantages of the Union, if the views with which it was made, had been steadily pursued. He added, "That though the two nations were now in other circumstances than when the Union was made, yet the same power that was in the two parliaments when they were separated and distinct, was lodged in them, now they were consolidated, and therefore if they had power to make it, they certainly had to dissolve it: and that he knew not any thing but what the parliament could do, except destroying the present constitution, which he owned they had no power to do. That the inconveniencies that had attended the Union could not be foreseen till the trial was made: and since the Scots, who were the best judges of the affairs of their kingdom, found that it did not answer the ends proposed, he was for dissolving it."

The Earl of *Sunderland* said to the same purpose, 'That though he had a hand in making the Union, yet if it had not that good effect which was expected from it, he was likewise for dissolving it."

The Lord Viscount *Townshend* said, "He was of the same opinion; provided, nevertheless, means could be found to secure the Protestant Succession, and therefore desired to know what security the Scots could give for

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that essential point, before they proceeded any further."

To this some of the Scotish Lords replied, "That would appear when the bill was brought in; that then it was a proper time to shew what security they could give;" and therefore moved that the question might be put immediately, Whether a bill should be brought in or not?

The Earl of *Nottingham* desired, that another day might be appointed to consider further of a matter of such consequence, that the Lords might be better apprized of it.

The Lord *Halifax* declared also for dissolving the Union, provided it could be made appear that the Succession could be secured; but yet desired that a further day might be appointed to consider of so important a matter.

Two Scotish Lords, the earls of Marr, and Loudoun, who were before for putting the question, immediately declared themselves better satisfied by that Lord's reasons, and so were for putting it off to another time. There were several other Speeches made both by English and Scotish Lords, particularly by the Earls of Paulett, Scarborough, and Scarsdale: and it is observable, that when one of the Lords urged the danger that England would be in from the Pretender, if the Union were dissolved, the lord Townshend answered, "He could not tell what England had to fear from that or any other incident; and that the Queen, Lords and Commons of England, if all in one interest, need fear no enemy in the world, but ought to despise the Pretender, and all his abettors." The duke of Argyle having occasion to mention the Pretender, said, "He knew not what name to call him by, his name being now as uncertain as his parents:" but the earl of Scarsdale called him the Prince, or, added he, the Pretender, which you will. Upon the whole matter the Court-Lords were all against dissolving the Union; and said, that the very moving such a thing was dangerous, and might be of ill consequence, and therefore desired that such an effectual stop might be put to it, as that none might offer at any such thing again. On the other hand, the Scotish Lords said, that if the Union were not dissolved, their country would be the most miserable under Heaven. The question being put on the Earl of Finlater's motion, the same was carried in the Negative by four voices, there being 54 Lords present on each side, and 17 proxies for the Negative, and only 13 for the Affirmative. It is observable that the Lord Treasurer having, in the course of this debate advanced, "That though the Tax were laid it might be afterwards remitted by the crown, and not levied:" The Earl of Sunderland said, "He wondered such expressions as tended to establish a despotic dispensing power, and arbitrary government, should come from that noble lord." To this the Treasurer answered, "That his family had never been for promoting and advising arbitrary measures, as others had done;" which the Earl of Sunderland taking to be a reflection on his father, he not only vindicated him, but added, "That the other Lord's family was hardly known in those days."

The Malt-Bill passed.] June 5. The Lords read a second time the Malt-Bill, and the question being put, that the same be referred to a committee of the whole House, the same occasioned a long debate; but after many speeches it was carried in the affirmative, by 85 voices against 83; that is, by 64 present and 21 proxies, against 63 present and 20 proxies. It was observed that two Scotish peers were absent without leaving their proxies, which if they had, the votes had been equal. Three days after, the Lords in a grand committee considered of the said bill, and, after a warm debate, that lasted till six o'clock in the evening, it was carried that the bill do pass, by a majority of 64 voices against 56.

Protest thereon.] On which occasion was entered the following Protest:

"Dissentient'

"Because, we apprehend, that the charging Scotland with this Malt-Tax will be a violation of the 14th Article of the Union, by which it is expressly provided, that Scotland shall not be charged with any Malt-Tax, during this war: And it was not denied; for, indeed, it is undeniable, that Peace with Spain is not yet concluded, and by construction of law and usage of parliament, this bill is to be reckoned as a grant to the crown, and a charge upon the people from the first day of this succession, at which time, even the Peace with France was not made.—2dly, Because a great part of this Malt-Tax is for the satisfying and making up the deficiency of the Malt-Tax in the year 1711, from which Scotland being entirely free, we conceive it unjust, even though the Peace were concluded, to make that part of the united kingdom pay any part of that Tax, which was expressly given (as appears by the preamble) for this present war.—3dly, Because it is by the aforesaid 14th Article expressly provided, that due consideration shall be had of the circumstances of Scotland, when any imposition or tax is laid on it; and we are fully persuaded that it is impossible for Scotland to bear so heavy a tax, by which it will be liable to pay vastly more when the Peace shall be concluded, than it did during the war; whereas England has its burdens greatly diminished. (Signed.) Somerset, Marr, Northesk, Balmerino, Scarborough, Linlithgow, Orkney, Sunderland, Finlater, Isla, Blantyre, Greenwich, Kinnoul, Lonsdale, Eglintoun, Rosberrie, Loudoun, Kylsyth, Hume."

Debate in the Commons on the Bill for making effectual the 8th and 9th Articles of the Treaty of Commerce.] June 9. The Commons, in a grand committee, took this Bill*

* "The matter of the greatest consequence in this session was, the Bill for settling the Commerce with France, according to the 8th and 9th Articles of the Treaty, which had been ordered by the Commons to be brought in.

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into consideration, sir Robert Davers being in the chair; and heard Mr. Cooke, a merchant, who, in behalf of the Levant Company, made a long speech; wherein, with great solidity of reason and argument, he shewed how detrimental the opening a trade with France, would be to the British woollen and silk manufactures, and to all the branches of our trade. The Merchants being withdrawn, the Commons took their allegations into consideration.

General *Stanhope*, to corroborate what Mr. Cooke had alledged, quoted the preamble of an act of parliament, made in the 13th year of Charles the 2nd's reign, that runs thus: "Forasmuch as it has been by long experience found, that the importing of French wines, brandy, linen, silk, salt, and paper, and other commodities of the growth, product, or manufactures, of the territories and dominions of the French king, has much exhausted the treasure of this nation, lessened the value of the native commodities and manufactures thereof, and caused great detriment to this kingdom in general: Be it therefore enacted, &c." Hereupon

The Speaker, supposing that Mr. Stanhope had made a mistake, said, 'There was no such 'thing in that act:' But

General *Stanhope* insisted, that the clerk should read the said act; and his quotation appearing to be right, he, and other members, animadverted with some vehemence on the Speaker's blunder: At last the debate cooled, and was put off to the next day; and it was resolved, that the Petitioners, who had not yet been, should then be heard.

June 10. The Commons having resolved themselves into a grand committee upon the Bill, the Spanish, Italian, and Portugal merchants, and the weavers of London, were admitted to be heard upon their several Petitions. Mr. Torriano, who spoke in behalf of the Spanish trade, having animadverted on the 8th and 9th Articles of the Treaty of Commerce, and mentioned the 10th and 11th, as relating to the two former; some court members were offended at it, and, after he had done speaking, moved the committee, that a mark of their displeasure might be set on him: But general Stanhope, Mr. Lechmere, sir Peter King, and Mr. John Smith said, "That unless they gave the Merchants full liberty of speech, the House would never be able to form a right judgment on that important affair; and they hoped, that no man should be reprimanded, for standing up for the trade of Great Britain." This, together with a noble spirit that appeared in the House on behalf of the Merchants, by the great number of members, both Tory and Whig, who, all at once, stood up to defend Mr. Torriano, made the courtiers drop that matter; and so Mr. Wyat spoke for the Italian merchants; Mr. Milner for the Portugal trade, and col. Lekeux for the London weavers. The Merchants being withdrawn, the Speaker resumed the chair; and it was resolved, That the grand committee should, the next day, consider further of the Bill; and that the other Petitioners be then heard. It was also ordered, That the minutes of the Levant company, and all memorials, petitions, representations, schemes of trade, and papers relating thereto, that were either before the Commissioners of Trade and Plantations, or before the Commissioners of the Customs, relating to the trade between England and France, be laid before the House.

June 11. The grand Committee heard several petitioners, and read many petitions, and other papers: And, two days after, a clause was ordered to be inserted in the bill, declaring, "That the privileges, liberties, and immunities, as to all duties, impositions, or customs, relating to commerce, or to any other right whatsoever, that had been, or might be granted by France, with respect to the subjects, goods, or merchandises of any foreign nation, should be un-

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The traders in the city of London, and those in all the other parts of England, were alarmed, with the great prejudice this would bring on the whole nation. The Turkey company, those that traded to Portugal and Italy, and all who were concerned in the woollen and silk manufactures, appeared before both Houses, and set forth the great mischief, that a Commerce with France, on the foot of the Treaty, would bring upon the nation; while none appeared on the other side, to answer their arguments, or to set forth the advantage of such a Commerce. It was manifest, that none of the trading bodies had been consulted in it; and the Commissioners for Trade and Plantations had made very material observations on the first project, which was sent to them for their opinion: and afterwards, when this present project was formed, it was also transmitted to that board by the queen's order, and they were required to make their remarks on it: but Arthur Moor, who had risen up from being a footman without any education, to be a great dealer in trade, and was the person of that board, in whom the lord treasurer confided most, moved, that they might first read it every one a-part, and then debate it; and he desired to have the first perusal: so he took it away, and never brought it back to them, but gave it to the lord Bolingbroke, who carried it to Paris, and there it was settled. The bill was very feebly maintained by those who argued for it; yet the majority went with the bill till the last day; and then the opposition to it was so strong, that the ministers seemed inclined to let it fall: but it was not then known, whether this was only a feint, or whether the instances of the French ambassador, and the engagements that our ministers were under to that court, prevailed for carrying it on. It was brought to the last step; and then a great many of those, who had hitherto gone along with the court, broke from them in this matter, and bestirred themselves so effectually, that when it came to the last division, 185 were for the bill, and 194 were against it: by so small a majority, was a bill of such great importance lost." Tindal.

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derstood to extend as well to the four species of goods, excepted in the 9th Article from the Tariff of 1664, as to all other merchandises whatsoever, imported into France by the subjects of Great Britain." Then the Commons, in a grand committee, made a further progress in the bill, and went through it on the 15th of June. Three days after, sir Robert Davers reported the amendments made to the bill: which, with some others, were agreed to by the House. Then a motion being made, that the bill be ingrossed, the same occasioned a warm debate, from three o'clock in the afternoon, till near 11 at night. General Stanhope, sir Peter King, Mr. Gould, Mr. Hampden, and some others, shewed the disadvantage of an open trade with France, upon the foot of the last Treaty of Commerce: And the member that spoke most in favour of the bill, was the same who had been chiefly imployed in that treaty, viz. Mr. Arthur Moore; but some of his arguments being strained, and precarious, the majority even of his own party adhered to the opinion of

Sir *Thomas Hanmer*, who made a long and elaborate speech; wherein, among other things, he said, That before he had fully examined the affair in question, he had given his vote for the bringing in the bill; but, that having afterwards maturely weighed and considered the allegations of the traders and manufacturers, in their several petitions and representations, he was convinced, that the passing of it, would be of great prejudice to the woollen and silk manufacturers of this kingdom, consequently increase the number of the poor, and, in the end, affect the land. That while he had the honour to sit in that House, he would never be blindly led by any ministry; neither, on the other hand, was he biassed by what might weigh with some men, viz. the fear of losing their elections; But that the principles upon which he acted, were the interest of his country, and the conviction of his judgment; and upon these two considerations alone, he was against the bill.

This speech made a great impression on many of the members; and Mr. Aislabie, one of the lords commissioners of the Admiralty, and Mr. Francis Annesly, one of the commissioners of the Public Accounts, having spoke also against the bill; the question, whether it should be ingrossed, was, at last, carried in the negative, by a majority of 194 voices, against 185.*

* "It was observed, that of the four members for the city of London, one only, sir William Withers, voted for the bill; and that sir Richard Hoare, then lord mayor, sir George Newland, and sir John Cass, voted against it; as did also the two members for Westminster, Mr. Medlicot, and Mr. Thomas Cross. On the other hand, it was given out, that the Lord Treasurer, foreseeing the ill effects of passing such a bill at this juncture, wrote, the night before, a Letter to the Speaker of the House of Commons, desiring him to use his interest to make it drop; which step he might, probably, be induced to take, from the opposition the bill was like to meet with in the House of Lords: where, that very afternoon, the earls of Anglesey and Abingdon, and some other peers, had declared against it: However, some suspected either the reality, or true design of such a letter: because most of the court, and Scotch members, voted for the bill. Be that as it will, the London drapers, mercers, and weavers, were overjoyed at the rejecting of the bill; and, on Friday night, the 19th of June, expressed their satisfaction by bon-fires and illuminations." Boyer.

The Queen's Answer concerning the Equivalent for Dunkirk.] June 19. The Chancellor of the Exchequer acquainted the House, That their Address having been presented to the Queen for an Account to be laid before the House, what Equivalent was given to the most Christian king for the demolition of Dunkirk, and in case the Equivalent was not complied with, what was stipulated relating to Dunkirk: Her majesty had been pleased to command him to acquaint this House, "That, in pursuance of the Treaties, as well between her majesty and the most Christian king, as between that king and the States General, the Equivalent which was to be given for the demolition of Dunkirk, was already in the hands of his most Christian majesty."

Address relating to the Towns held by the Dutch Troops in Flanders.] June 22. The Chancellor of the Exchequer acquainted the Commons, That pursuant to their Address for an Account, what her majesty had stipulated for the Trade of Great Britain in Flanders, and how the same was to be secured, her majesty had commanded the Report of her Commissioners of Trade, about that matter, to be laid before this House. And he presented the same accordingly; which being read, it was resolved to address her majesty, "That she would be pleased to take care, that the towns in Flanders in her majesty's possession, be not evacuated till those who are to have the sovereignty of the Spanish Netherlands, agree to such articles for regulating of trade, as may put the subjects of Great Britain upon an equal foot with those of any other nation." To which Address the queen made a very gracious Answer, agreeable to the desire of the House.

Address of Thanks for the Treaties of Peace and Commerce.] June 23. Sir Thomas Hanmer moved, "That an Address be presented to her majesty, returning her majesty the humble Thanks of this House, for the great care she has taken of the security and honour of her kingdoms in the Treaty of Peace; and also for what she has done in the Treaty of Commerce with France, by laying so good a foundation for the interests of her people in trade; and humbly to desire her majesty, that she would be pleased to appoint Commissaries to treat

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with Commissaries on the part of France, for adjusting such matters as shall be necessary to be settled in the Treaty of Commerce between her majesty and France, that the Treaty may be so explained and perfected, that an entire scheme of trade may be settled, for the making effectual her majesty's gracious intentions for the good and welfare of her people." The House being very thin, and many of the members who voted against the Bill abovementioned, and who did not expect such a motion, being absent, the question was carried in the affirmative by a majority of 156 voices against 72. After a Committee for drawing up the Address had been appointed, general Stanhope made a motion, and the question was put, "That it be an instruction to the said Committee, that they do represent in the said Address, the sense of this House, That her majesty's Commissaries, who are to treat of the commerce between Great Britain and France, shall insist, that liberty be given to her majesty's subjects to trade to all the ports in the French king's dominions:" But the previous question being put, That that question be now put, it passed in the negative.

The next day sir Thomas Hanmer reported the Address of Thanks, which was agreed to as follows:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, having, at the opening this session, congratulated your majesty upon the conclusion of a Peace, find ourselves now under equal obligations of duty, to express our thankfulness to your majesty, since we have been acquainted with the conditions and terms of it; which by your great wisdom have been procured, and by your gracious condescension have been communicated to us; your majesty's extensive care hath not only provided for the security, but the honour of your kingdoms; and we should be wanting in concern for both, if we should omit our just acknowledgments for the particular regards which your majesty in this, as well as in other instances, hath shewn to them.—The good foundation your majesty hath laid for the interest of your people in trade, by what you have done in the Treaty of Navigation and Commerce with France, gives us hopes of seeing it yet further improved to the advantage of your kingdoms; and we make it our humble request to your majesty, that you will be pleased to appoint Commissaries to treat with those of France, for the adjusting such matters as are still necessary to be settled; and that you will give such orders for the perfecting the said Treaty, and explaining the several parts of it, that an entire scheme of trade may be framed between Great Britain and France, which may fully answer, and make effectual your majesty's gracious intentions for the good and welfare of your people."

The Queen's Answer.] To which the queen gave this Answer:

"Gentlemen;

"I thank you most heartily for this Address, which so fully expresses your approbation of the Treaties of Peace and Commerce with France.—It was with no small difficulty that so great advantages in trade were obtained for my subjects, and I will readily comply with your desires, in continuing my utmost care to secure the benefits I have stipulated for my people."

This Answer surprized many of the members, such especially who readily went into the Address with no other intention, than to shew their approbation of the Treaty of Peace, abstracted from the Treaty of Commerce. However, the Speaker having early the next day reported the said Answer to a very thin House, it was resolved, *nem. con.* "That the humble Thanks of the House be returned to her majesty, for her most gracious Answer to the Address of this House."

This was all that passed this session with relation to Peace. It was once apprehended, that the ministers would have moved for an Act, or at least for an Address, approving the Peace, but no such motion was made.*

* Burnet says, that, if such a motion had been made, he would have spoken the following Speech, being the only one he ever prepared beforehand, which he has inserted in his History, in order to deliver down to posterity his thoughts of this great transaction:

"My lords; this matter now before you, as it is of the greatest importance, so it may be seen in very different lights; I will not meddle with the political view of it: I leave that to persons, who can judge and speak of it much better than I can; I will only offer to you what appears to me, when I consider it, with relation to the rules of morality and religion; in this I am sure I act within my proper sphere. Some things stick so with me, that I could have no quiet in my conscience, nor think I had answered the duty of my function, if I did not make use of the freedom of speech, that our constitution and the privileges of this House allow me: I am the more encouraged to do this, because the bringing those of our order into public councils, in which we have now such a share, was originally intended for this very end, that we should offer such considerations, as arise from the rules of our holy religion: in all matters that may come before us. In the opening my sense of things, I may be forced to use some words, that may perhaps appear severe: I cannot help it, if the nature of these affairs is such, that I cannot speak plainly of them, in a softer strain; I intend not to reflect on any person: and I am sure I have such a profound respect for the queen, that no part of what I may say, can be understood to reflect on her in any short: her intentions are no doubt, as she declares them to be, all for the good and happiness of her people; but it is not to be supposed, that she can read long treaties, or carry the articles of them in

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The Queen's Message concerning the Debts of the Civil List.] June 25. The Chancellor of the Exchequer presented the following Message from her Majesty:

"Her majesty thinks fit to acquaint her loyal House of Commons with the difficulties, which in a particular manner she lies under by the Debts contracted in her civil government, occasioned by several extraordinary expences formerly incurred; so that her majesty thinks herself obliged in justice to many creditors, to order an Estimate to be laid before this House

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her memory; so, if things have been either concealed from her, or misrepresented to her, 'She can do no wrong,' and if any such thing has been done, we know on whom our constitution lays the blame.

"The treaties that were made some years ago with our allies are in print; both the Grand Alliance, and some subsequent ones: we see many things in these, that are not provided for by this peace; it was in particular stipulated, that no peace should be treated, much less concluded, without the consent of the allies. But before I make any observations on this, I must desire you will consider how sacred a thing the public faith, that is engaged in treaties and alliances, should be esteemed.

"I hope, I need not tell you, that even heathen nations valued themselves upon their fidelity, in a punctual observing of all their treaties, and with how much infamy they branded the violation of them; if we consider that which revealed religion teaches us to know, that man was made after the image of God, the God of all truth, as we know who is the father of lies; 'God hates the deceitful man, in whose mouth there is no faithfulness.' In that less perfect religion of the Jews, when the Gibeonites had, by a fraudulent proceeding, drawn Joshua and the Israelites into a league with them; it was sacredly observed; and the violation of it, some ages after, was severely punished. And, when the last of the kings of Judah shook off the fidelity, to which he had bound himself to the king of Babylon, the prophet thereupon said with indignation, 'Shall he break the oath of God, and prosper?' The swearing deceitfully is one of the worst characters; and 'He who swears to his own hurt, and changes not, is among the best. It is a maxim of the wisest of kings, that, 'the throne is established in righteousness.' Treaties are of the nature of oaths; and, when an oath is asked to confirm a treaty, it is never denied. The best account that I can give of the disuse of adding that sacred seal to treaties is this.

"The Popes had for some ages possessed themselves of a power, to which they had often recourse, of dissolving the faith of treaties, and the obligation of oaths; the famous but fatal story of Ladislaus, king of Hungary; breaking his faith to Amurath the Turk by virtue of a papal dispensation, is well known. One of the last public acts of this sort, was when pope Clement the seventh absolved Francis the first from the treaty made and sworn to at Madrid while he was a prisoner there: the severe revenge that Charles the fifth took of this, in the sack of Rome, and in keeping that pope for some months a prisoner, has made popes more cautious since that time, than they were formerly: this also drew such heavy but just reproaches, on the papacy, from the reformers, that some stop seems now to be put to such barefaced protection of perjury. But the late king told me, that he understood from the German protestant princes, that they believed the confessors of popish princes had faculties from Rome for doing this as effectually, though more secretly: he added, that they knew it went for a maxim among popish princes, that their word and faith bound them as they were men, and members of society; but that their oaths, being acts of religion, were subject to the direction of their confessors; and that they, apprehending this, did in all their treaties with the princes of that religion, depend upon their honour, but never asked the confirmation of an oath, which had been the practice of former ages. The protestants of France thought they had gained an additional security, for observing the edict of Nantes, when the swearing to observe it was made a part of the coronation oath; but it is probable, this very thing undermined and ruined it.

"Grotius, Puffendorf, and others who have wrote of the law of nations, lay this down for a rule, that the nature of a treaty, and the tie that arises out of it, is not altered by the having, or not having an oath; the oath serves only to heighten the obligation. They do also agree in this, that confederacies do not bind states, to carry on a war to their utter ruin; but, that princes and states are bound to use their utmost efforts in maintaining them: and it is agreed by all, who have treated of these matters, that the common enemy, by offering to any one confederate all his pretensions, cannot justify his departing from the confederacy; because it was entered into with that view, that all the pretensions, upon which the confederacy was made, should be insisted on, or departed from, by common consent.

"It is true, that in confederacies, where allies are bound to the performance of several articles, as to their quotas or shares, if any one fails in the part he was bound to, the other confederates have a right to demand a reparation for his non-performance: but, even in that case, allies are to act as friends, by making allowances for what could not be helped, and not as enemies by taking advantages, on design to disengage them from their allies. It is certain, allies forfeit their right to the alliance, if they do not perform their part: but the failure must be evident, and an expostulation must be first made: and if, upon satisfaction demanded, it is not given, then a protestation should be made, of such non-performance; and the rest of the confederates are at liberty, as to him who fails on his part: these are reckoned among the cus-

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of what was owing on the Civil List in the year 1710.—Her majesty hath used unexampled parsimony to remove, if possible, this burden from herself; but the granting away, and lessening some part of her revenue by parliament, has made that impracticable; therefore her majesty hopes that this House of Commons, which on all occasions have shewn themselves so well affected to her, will not be unwilling to empower her to raise such a sum of money on the Civil List Funds, as may enable her to discharge the debts, and settle the expence, to be regularly paid for the future.

"Kensington, June 25, 1713."*

A Motion for an Account of those Debts rejected.] This Message having been read by the Speaker; Mr. Chancellor of the Exchequer presented to the House an Estimate of the Debts which were owing to the several heads of expence for her majesty's Civil Government at or about Midsummer 1710, which being read, it was resolved to consider of the said Message the next day, in a committee of the whole

toms and laws of nations: and, since nothing of this kind has been done, I cannot see how it can be made out, that the tie of the confederacy, and by consequence, that the public faith has not been first broken on our side.

"My lords, I cannot reconcile the carrying on a treaty with the French, without the knowledge and concurrence of the other confederate states and princes, and the concluding it without the consent of the emperor, the principal confederate; not to mention the visible uneasiness, that has appeared in the others, who seem to have been forced to consent, by declarations, if not by threatenings; from hence I say, I cannot reconcile this, with the Articles of the Grand Alliance, and the other later treaties, that are in print: this seems to come within the charge of the prophet, against those "who deal treacherously with those who had not dealt treacherously with them;" upon which the threatening that follows may be justly apprehended: it will have a strange sound among all Christians, but more particularly among the reformed, when it is reported, that the plenipotentiary of the head of the reformed princes said openly to the other plenipotentiaries, that the queen held herself free from all treaties and alliances; if this be set for a precedent, here is a short way of dispensing with the public faith; and, if this was spoken by one of our prelates, I am afraid it will leave a heavy reproach on our church; and, to speak freely, I am afraid it will draw a much heavier curse after it. My lords, there is a God in heaven, who will judge all the world, without respect of persons: nothing can prosper without his blessing: he can blast all the counsels of men, when laid in fraud and deceit, how cunningly soever they may be either contrived or disguised: and I must think that a peace made in opposition to the express words of so many treaties, will prove a curse instead of a blessing to us: God is provoked by such proceedings, to pour heavy judgments on us, for the violation of a faith so often given, which is so openly broken: by this our nation is dishonoured, and our church disgraced: and I dread to think, what the consequence of those things is like to prove. I would not have expressed myself in such a manner, if I had not thought, that I was bound to it by the duty that I owe to Almighty God, by my zeal for the queen, and the church, and by my love to my country. Upon so great an occasion, I think my post in the church, and in this house, lays me under the strictest obligations to discharge my conscience, and to speak plainly without fear or flattery, let the effect of it, as to myself, be what it will: I shall have the more quiet in my own mind, both living and dying, for having done that, which seemed to me an indispensable duty.

"I hope this house will not bring upon themselves, and the nation, the blame and guilt of approving that, which seems to be much more justly censurable: the reproach that may belong to this treaty, and the judgments of God, that may follow on it, are now what a few only are concerned in. A national approbation is a thing of another nature; the public breach of faith, in the attack that was made on the Smyrna fleet 40 years ago, brought a great load of infamy on those, who advised and directed it: but they were more modest than to ask a public approbation of so opprobrious a fact: it lay on a few; and the nation was not drawn in to a share in the guilt of that, which was then universally detested, though it was passed over in silence: it seems enough, if not too much, to be silent on such an occasion. I can carry my compliances no further."

* "The House of Commons was, as to all other things, except the affair of commerce, so entirely in the hands of the ministers, that they ventured on a new demand of a very extraordinary nature, which was made in as extraordinary a manner. The civil list, which was estimated at 600,000*l.* a year, and was given for the ordinary support of the government, did far exceed it. And this was so evident, that, during the three first years of the queen's reign, 100,000*l.* was every year applied to the war; 200,000*l.* was laid out in building of Blenheim-house; and the entertaining the Palatines had cost the queen 100,000*l.* So there was apparently a large overplus, beyond what was necessary towards the support of the government. Yet these extraordinary expences had put the ordinary payments into such an arrear, that, at Midsummer, 1710, the queen owed 510,000*l.* But, upon a new account, this was brought to be 80,000*l.* less; and, at that time, there was an arrear of 190,000*l.* due to the civil list: these two sums amounting to 270,000*l.* the debt that remained, was but 240,000*l.* Yet now, in the end of the session, when upon rejecting the bill of commerce, most of the members were gone into the country, so that there were not 180 left, a Message was sent, &c." Tindal.

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House, and ordered that the said Message and Estimate be referred to the said Committee. An eminent member, Mr. J. Smith, formerly Speaker of the House, and one of the Tellers of the Exchequer, having raised some objections against that Estimate, saying, in vindication of the late ministry, that, to his certain knowledge, the Debts of the Civil List in August, 1710, did not amount to above 150,000*l.* for the payment of part of which sum there were some money standing out, besides great quantities of tin, whereas, by the Estimate now laid before the Commons, the said Debts, to Midsummer 1710, that is, about two months before, were made to amount to 400,000*l.*, a motion was thereupon made, and the question put, That an humble Address be presented to her majesty that she would please to direct an Account to be laid before this House of the Arrears of the Civil List Funds standing out at Midsummer, 1710. And also an Account of the Debts of the Civil List as they are at this time, and of the Arrears of the Civil List Funds to pay the same; but the same passed in the negative, to the great surprize of many.

Vote to empower the Queen to raise 500,000*l.* *to pay the Civil List.*] The next day the Commons considered of the Message, and after some debate, came to this Resolution, "That her majesty be impowered by letters patents under the Great Seal to set apart and appropriate a sum not exceeding 35,000*l.* per ann. for any term not exceeding 32 years, to be made a fund or security to raise, by such means and methods, and in such manner and form as her majesty by such letters patents shall appoint, any sum not exceeding 500,000*l.*, to discharge Arrears and Debts owing to her servants and others, payable out of the branches settled for defraying the expence of her Civil Government, and that the said yearly sum be charged upon all the said branches, whether they be hereditary or temporary, and be issued and paid at the Exchequer, out of the moneys from time to time arising by those branches, with preference to all other payments to be hereafter charged thereupon at the said receipt." Which Resolution was the next day reported, and agreed to by the House; and a Bill was ordered to be brought in thereupon.

The Bills to raise 500,000*l. for the Civil List, and* 1,200,000*l. by Exchequer Bills, consolidated or tacked.*] June 30. The Bill was read a second time, and committed to the Committee of the whole House, to whom the Bill to raise 1,200,000*l.* for her majesty's Supply, by circulating a farther sum in Exchequer Bills, was committed; and, notwithstanding the opposition made by some members, it was ordered, That it be an instruction to the said Committee, that they do alter the said bills, and make them into one*. After this, the motion some days before made and laid aside, being again proposed with better success, it was resolved to address her majesty, first, For an Account of the Debts on the Civil List to Midsummer 1713. And 2ndly, For a yearly account of the neat produce of the Civil List Funds, since her majesty's accession to the throne. This last Address was made upon a suggestion, that the Civil List Funds, which at first were given only for about 700,000*l.* per ann. yielded now above 850,000*l.* But whether there were any ground for that report or no, it is certain that no Answer was returned to that Address.

Motion in the Lords for removing the Pretender from Lorrain.] June 29. The duke of Bolton took notice in the House of Peers both of the queen's Message to the Commons about the Debts of the Civil Lists, and of the Resolutions of the Commons thereupon, insinuating, That they were somewhat extraordinary, the usual way being for the crown to ask subsidies of both Houses, otherwise the House of Lords would become altogether useless: but though the consideration of this matter was put off to the next day, yet the same was waved, upon account of a more important affair, viz. The earl of Wharton then moved, "That an humble Address may be presented to the queen, that she would be pleased to use her most pressing instances with the duke of Lorrain, and with all the princes and states in amity and correspondence with her majesty, that they would not receive, or suffer to continue within any of their dominions, the Pretender to the imperial crown of these realms."

Several members appearing surprized at this unexpected motion, which was undoubtedly designed to try the inclinations and affections of some persons, there was a pause for a while: At last the lord North and Grey broke silence, and endeavoured to have that motion laid aside,

* "The bill met with great opposition, as it appeared to be of bad consequence, since the granting of such demands to one prince would be a precedent to grant the like to all future princes; and as the account of the queen's Debts was deceitfully stated, so it was known, that the funds, set off for the Civil List, would encrease considerably in times of peace. However, though there was a great superiority in point of argument against the bill, there was a considerable majority for it. And all people concluded, that the true end of getting so much money into the hands of the court, was to furnish their creatures sufficiently for carrying their elections. The Lords were sensible, that the method of procuring this supply was contrary to their privileges, since all public supplies were either asked from the throne, or by a message sent to both Houses at the same time. This practice was enquired into by the Lords; no precedents came up to it; but some came up so near it, that nothing could be made of the objection. But the ministers apprehending, that an opposition would be made to the bill, if it came up alone, got it consolidated with another of 1,200,000*l.* that was before them. And the weight of these two joined together made them both pass in the House of Lords, without opposition." Tindal.

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representing, that such an Address would shew a distrust, either of the queen, or the ministers; that her majesty would be very much puzzled what to do, in case the princes and the states in amity with her, should be unwilling to comply with her instances, since it would not be in her power to compel them; concluding with this question, Where they would have the Pretender reside, since most, if not all the powers in Europe, were in amity with her majesty? To this the earl of Peterborough was said to have answered, That since he began his studies in Paris, the fittest place for him to improve himself was Rome. After some other warm expressions between the earl of Wharton and the Lord Treasurer, it was unanimously resolved that such an Address should be presented to her majesty.

The Lords' Address thereon.] Accordingly, July 2, the House of Lords attended her majesty with the following Address:

"Most gracious Sovereign,

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled; do take leave humbly to return to your majesty the thanks of this House, for the great care it appears to us your majesty has, on all occasions, taken to prevent the Pretender to your crown from coming into any of your majesty's dominions: And we do humbly beseech your majesty, that for the safety of your person and government, the security of the Protestant Succession in the house of Hanover, and for the peace and quiet of these your kingdoms, your majesty will be graciously pleased to use your most pressing instances with the duke of Lorrain, and with all princes and states in amity and correspondence with your majesty, that they will not receive, or suffer to continue within any of their dominions the Pretender to the imperial crown of these realms."

The Queen's Answer.] To which her majesty returned this Answer:

"My Lords; I take extreme kindly your Address, and the thanks you give me for what I have done for establishing the Protestant Succession.—I shall repeat my instances to have that person removed according as you desire in this Address. And I promise myself, you will concur with me, that if we could cure our animosities and divisions at home, it would be the most effectual method to secure the Protestant Succession."

A Second Address against the Pretender ordered by the Lords.] The Lord Chancellor (Harcourt) having the next day reported her majesty's Answer, the duke of Buckingham, Lord President, said, he never heard of any instances that had yet been made to the duke of Lorrain, for removing the Pretender out of his dominions. If either of the two principal ministers of state had been in the House, they might, in all probability, have better explained her majesty's Answer; but they happened to be both at dinner with the duke D'Aumont, ambassador extraordinary from his most Christian majesty. Hereupon, the earl of Sunderland made a motion for a second Address; which was backed by the earl of Nottingham, and, notwithstanding some small opposition, it was ordered, "That an humble Address be presented to her majesty, to return the Thanks of this House to her majesty, for her most gracious Answer to their Address; and for the assurances her majesty has been pleased to give us, of repeating her instances for removing the Pretender; and to express our surprize, that such instances have not had their full effect, notwithstanding the French king and the king of Spain have shewed their compliance to her majesty's desires on that occasion; and to assure her majesty, that this House will stand by her and support her, in whatever her majesty shall judge proper for obtaining a demand, which is so warranted by the laws of nations, and so necessary for the honour and safety of her majesty, and for the present and future peace and quiet of the people." It was also ordered, that the said Address be presented to her majesty by the lords with the white staves; which was done accordingly: And on the 6th the Lord Steward acquainted the House, That the lords with white staves had presented to her majesty the Address of this House of Friday last; and her majesty was pleased to receive the same very graciously.

The Commons' Address for removing the Pretender.] July 1. General Stanhope made a Motion for an Address for the queen to use her most pressing instances with the duke of Lorrain to remove the Pretender out of Lorrain. Which was seconded by Mr. Lechmere. The only objection raised against it, was started by sir Wm. Whitlocke, who said, 'He remembered, that the like Address was formerly made to the Protector, for having Charles Stuart removed out of France:' Notwithstanding which, that prince was, some time after, restored to his father's throne; but nevertheless those few members who might have any affection for the present royal exile, being shy to shew it on so critical a juncture, when the parliament being so near expiring, a new election was coming on, Mr. Stanhope's motion was agreed to *nem. con.*

The Address, which was presented to her majesty on the 8th, was as follows:

"Most gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, having nothing so justly at our hearts as the honour and safety of your most sacred person, and government, and the security of the Protestant Succession, do crave leave most thankfully to acknowledge the great care which your majesty, in tenderness to your people, hath always taken to prevent the Pretender to your crown from being in a condition to disturb these realms; and particularly by the late Treaty of Guaranty with the States-general, and the Treaty of Peace between your majesty and the French king; wherein, amongst other just and necessary provisions, for the security of the Protestant Succession, it is stipulated,

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that the Pretender to your majesty's crown shall not be suffered to reside in any of that king's dominions.—Your majesty wisely insisted upon his removal from that neighbouring kingdom; and your faithful Commons are so fully convinced of the necessity there is to remove him as far as possible, that they cannot but express to your majesty their apprehensions of the many dangers which may accrue to your majesty, and to your kingdoms, from his residing in the territories of the duke of Lorrain.—We do, therefore, out of the highest duty and concern for the preservation of your royal person, and the quiet of your people, most humbly beseech your majesty, that you will be pleased to use the most speedy and pressing instances with the duke of Lorrain, and with all other princes and states in amity or correspondence with your majesty, that they will not, under any pretext whatsoever, receive, or suffer to continue, within any of their dominions, that person who, in defiance of your majesty's most undoubted title to the crown, and the settlement thereof on the illustrious house of Hanover, has assumed the title of king of these realms: And we farther beg leave to assure your majesty, that the Commons of Great Britain will, on all occasions, to the utmost of their power, support your majesty in such steps as shall be necessary towards rendering those instances effectual, and your majesty safe and easy upon your throne."

The Queen's Answer.] Her majesty gave this Answer:

"Gentlemen; I thank you heartily for your Address, and I will give directions according to your desire."

Thanksgiving for the Peace.] The queen having appointed the 7th of July for a public Thanksgiving, for the safe and honourable Peace lately concluded, and invited her parliament to attend her to St. Paul's, both Houses went with the usual state; but the queen not having intirely recovered her strength since the last fit of the gout, she could not be present at that solemnity. The Whigs were absent for another cause. In the evening there were great bonfires and illuminations throughout the cities of London and Westminster, and magnificent fireworks were played off on the Thames over-against Whitehall.

The Queen's Speech at the Close of the Session.] July 16. The queen came to the House of Peers to pass the bills, and put an end to the session; when she made the following Speech to both Houses:

"My Lords and Gentlemen;

"I come now to put an end to this session with great satisfaction, and return you all my hearty thanks for the good service you have done to the public.

"Gentlemen of the House of Commons;

"I must particularly thank you for the Supplies you have now given: I will take care to apply them, as far as they will reach, to satisfy the services you have voted.—I hope, at the next meeting, the affair of commerce will be so well understood, that the advantageous conditions, I have obtained from France, will be made effectual for the benefit of our trade.—I cannot part with so good and so loyal an House of Commons, without expressing how sensible I am of the affection, zeal, and duty, with which you have behaved yourselves; and I think myself therefore obliged to take notice of those remarkable services you have performed.—At your first meeting you found a method, without farther charge to my people, to ease them of the heavy load of more than nine millions; and the way of doing it may bring great advantage to the nation.—In this session you have enabled me to be just in paying the debts to my servants.—And, as you furnished Supplies for carrying on the war, so you have strengthened my hands in obtaining a peace.—Thus you have shewed yourselves the true representatives of my loyal Commons, by the just regard you have paid to the good of your country and my honour. These proceedings will, I doubt not, preserve the memory of this parliament to posterity.

"My Lords and Gentlemen;

"At my coming to the crown, I found a war prepared for me. God has blessed my arms with many victories, and at last has enabled me to make them useful by a safe and honourable Peace.—I heartily thank you for the assistance you have given me therein, and I promise myself, that, with your concurrence, it will be lasting.—To this end, I recommend it to you all, to make my subjects truly sensible what they gain by the peace; and that you will endeavour to dissipate those groundless jealousies which have been so industriously fomented amongst us; that our unhappy divisions may not weaken, and in some sort endanger, the advantages I have obtained for my kingdoms.—There are some (very few I hope) who will never be satisfied with any government; it is necessary therefore, that you shew your love to your country, by exerting yourselves, to obviate the malice of the ill-minded, and to undeceive the deluded.—Nothing can establish Peace at home, nothing can recover the disorders that have happened during so long a war; but a steady adhering to the constitution in Church and State.—Such as are true to these principles are only to be relied on; and as they have the best title to my favour; so you may depend upon my having no interest nor aim, but your advantage, and the securing of our religion and liberty.—I hope, for the quiet of these nations, and the universal good, that I shall next winter meet my parliament; resolved to act upon the same principles, with the same prudence, and with such vigour, as may enable me to support the liberties of Europe abroad, and reduce the spirit of faction at home."*

* "Few Speeches from the throne have in my time been more severely reflected on, than this was: it seemed strange that the Queen, who did not pretend to understand matters of trade, should pass such a censure on both

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Then the Lord Chancellor, by her majesty's command, prorogued the parliament to the 23th of August.

houses, for their not understanding the affair of commerce; since at the bar of both houses, and in the debates within them upon it, the interest of the nation did appear so visibly to be contrary to the Treaty of Commerce, that it looked like a contempt put on them, to represent it as advantageous to us, and to rank all those, who had opposed it, among the ill-minded, or at least among the deluded. Nor did it escape censure, that she should affirm, that the nation was by them eased of the load of nine millions, without any further charge, since the nation must bear the constant charge of interest at six per cent. till the capital should be paid off. The sharpness with which she expressed herself was singular, and not very well suited to her dignity or her sex: nor was it well understood, what could be meant by her saying, that she found a war prepared for her, at her coming to the crown; since she herself began it, upon the Addresses of both Houses. It was also observed, that there was not, in all her Speech, one word of the Pretender, or of the Protestant Succession; but that, which made the greatest impression on the whole nation, was, that this Speech discovered plainly, that the Court was resolved to have the Bill of Commerce pass in the next session: all people concluded, the ministers were under engagements to the Court of France to get it settled: and this was taken to be the sense of the queen's words concerning the making the Peace lasting; what effect this may have on the next elections, which are quickly to follow, must be left to time.

"I am now come to the end of the war, and of this parliament, both at once: it was fit they should bear some proportion to one another; for, as this was the worst parliament I ever saw, so no assembly, but one composed as this was, could have sat quiet under such a Peace: but I am now arrived at my full period, and so shall close this work: I had a noble prospect before me, in a course of many years, of bringing it to a glorious conclusion; now the scene is so fatally altered, that I can scarce restrain myself from giving vent to a just indignation, in severe complaints: but an Historian must tell things truly as they are, and leave the descanting on them to others: so I here conclude this History of above three and fifty years.—I pray God it may be read with the same candour and sincerity, with which I have written it, and with such a degree of attention, as may help those who read it, to form just reflections, and sound principles of religion and virtue, of duty to our princes, and of love to our country, with a sincere and incorruptible zeal to preserve our religion, and to maintain our liberty and property." Burnet.

"Thus ended the third and last session of the third British parliament, which some have distinguished by the epithet of 'Pacific;'

PRINCIPAL OCCURRENCES DURING THE RECESS—*The Parliament dissolved—Progress of the Elections—The Parliament further prorogued—Jars at Court—The Crisis published by Mr. Steele—The Queen's Illness—Her Letter to the Lord Mayor—Promotions.*]—On the 8th of August the parliament was dissolved, and a new one was appointed to meet on the 12th of November. The party writers and managers on both sides were extremely busy in preparing the minds of the people to favour their respective interests in the new Elections. But notwithstanding the weight and influence of the court, and the visible partiality of some returning officers, a far greater number of Whigs were chosen, than was by many expected.

"On the 18th of October," says Tindal, "the Parliament was, by proclamation, further prorogued, from the 12th of November to the 10th of December, which was occasioned by the queen's illness, and the contests among the ministers. It was then strongly reported, that the lord Bolingbroke, Mr. Secretary Bromley, and sir William Wyndham (who, on the 1st of November, was made a privy-counsellor) having gained the ascendant, the Lord Treasurer entertained thoughts of retirement. And, indeed, the author of the paper, called the Examiner, thought fit, about the middle of November, to prepare the minds of the people for an approaching change in the ministry.* But

and whose proceedings, as they are variously censured by the present age, so will they bear a various character with posterity. It may be observed, in general, that though this House of Commons was mostly made up of country-gentlemen, who having borne a great part of the burden of the war, were easily prepossessed against them, who were suggested to have prolonged it for their private interest; and so, on many occasions voted blindly with their leaders; yet when the Trade, that is, the main source of the riches and strength of Great-Britain, came to fall under their consideration, many worthy patriots opened their eyes, shook off all mean dependance, and firmly adhered to the interest of their country." Political State.

*In the Examiner of November the 16th, the author suggests, "That in a constitution, which hangs together by so many minute parts, and which depends upon such variety of wheels and motions, where power and freedom are in a perpetual flux and reflux, we must of necessity be liable to turns and contingencies—That this uncertainty is redoubled, wherever strife and contention are let loose in a nation, where factions rage and worry one another; and even the government itself is treated as a party—— Thus, under these circumstances, a ministry is obliged to act in another capacity than that which properly belongs to them. They must sometimes act like military as well as civil officers; draw forth their forces, and appear at the head of squadrons, and battalions, whenever faction takes the field, and declares open

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what appeared more surprizing, was the ludicrous stile in which the same author, who was the mouth of those in power, spoke of the queen's indisposition, and of the succession in case of a demise.*

"Whilst things were in this dangerous situation, Mr. Steele published his 'Crisis, or A 'discourse representing from the most Authen-'tic Records, the just Causes of the late happy 'Revolution, and the several Settlements of 'the crowns of England and Scotland on her 'majesty; and, on her demise without issue, 'upon the most illustrious princess Sophia, 'electress and duchess-dowager of Hanover, 'and the heirs of her body being Protestants; 'by previous acts of both parliaments of the 'late kingdoms of England and Scotland; and 'confirmed by the parliament of Great Britain: 'with some Remarks on the danger of a Popish 'Successor.' The design of this piece was first suggested to Mr. Steele, by Mr. More, of the Inner-Temple: and the work itself passed through the hands of Mr. Addison, Mr. Lechmere, and Mr. Hoadley. And it was so well received by the public, that many were confirmed by it in their affection to the Protestant Succession.

"All this while the queen continued in a very dangerous state of health at Windsor; of which various accounts were spread abroad; but the truth was thus, as represented by Dr. Shadwell, in his letters to the duke and duchess of Shrewsbury: On Wednesday the 23d of December, her majesty was very uneasy all night with the gout in her foot. The next morning it went intirely off, and she said she was well. But, about one o'clock that day, she complained of a pain in her thigh, and was seized with a violent shivering, which lasted above two hours. Extreme heat followed, with intense thirst, great restlessness, anxiety, and inquietude. The pulse was full, hard, and quick; which Dr. Shadwell finding, the next day, he very much pressed bleeding, urging, it would probably carry off a good part of the fever, and bring a fit of the gout; but it was not agreed to; and these symptoms continued till Saturday morning, when her majesty fell asleep, waked refreshed, and on Sunday morning there was a perfect intermission of the symptoms; but the pulse, in Dr. Shadwell's opinion, was not quiet. The next night about twelve, she was attacked with an exacerbation of the fever, which lasted all the Monday till midnight. Most of the queen's physicians judging her distemper to be an ague, proposed and pressed the giving her the jesuit's bark; but, though this was warmly opposed by Dr. Shadwell, yet the physician, who watched that night, gave it, saying, he found the pulse calm. No exacerbation appeared after this: but nevertheless Dr. Shadwell still declared, he did not like the pulse: that there was no perfect intermission of the fever; but that the pulse was at work, to separate the morbific matter into the gout, or some worse shape. The pains of the thigh increasing, till three or four doses of the bark were given, Dr. Shadwell laid a stress upon having that part examined; but the other physicians called it a fit of the gout. Dr. Shadwell answered, it could not properly be called so in the muscles; and being of opinion, that this was an inflaminatory fever from the translation of the gout, and not a common ague, or intermitting fever; and finding, that, after thirty-nine hours continuance, there was a perfect remission, but no intermission, he made a prognostic, that, unless the feverish matter were separated, and thrown off into a smart fit of the gout, a worse symptom might happen; as its falling into the thigh, and fixing into an erysepelous tumour. This opinion was justified by a severe fit of the gout, that came upon her majesty a few days after, and gave some hopes of her intire recovery.

"While the queen was in this uncertain state of health, the minds of the several parties were variously agitated. The friends of the Pretender believed, that all things were preparing for his restoration; and, on the other hand, the alarm of the well affected to the Hanover Succession was not a little increased upon the news, that a squadron of 14 men of war was fitting out in the ports of France; and that they were to take on board 12 or 14,000 land-men. The public funds fell gradually

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war against them. There wants but very little of bringing things, as they now stand, to this deplorable crisis——That the possession of power under these difficulties, is almost as great an uncertainty, as the fortune of war, and stands exposed to as many turns and cross accidents——And that these considerations amount to a full proof, that the best of patriots are more exposed to mortality, as ministers of state, than as men, &c."

* The Examiner of January the 8th, 1713-14, contains what follows: "According to the best advices sent us by the Whigs, and their oracles, the demise of the crown happened upon Thursday the 24th of December, being Christmas-eve, at four of the clock in the morning in the year 1713. All ages, ranks, sexes, and orders of men, at first hearing of the ill news, were affected with the deepest sorrow; and a general panic ran through the whole kingdom. For a long time, we were distracted and inconsolable; in the utmost horror and confusion, upon the loss of our most excellent queen, who then became immortal: but these black clouds were soon dispersed, our fears and jealousies vanished, and we revived from a deplorable state of grief and misery, at the first joyful tidings of the happy accession of her most sacred majesty queen Anne the second (whom God long preserve) to the throne of her ancestors: the nature of our monarchy being such, that, immediately after the death of the person in possession, the crown, by right of inheritance, descends to the next heir, without any previous formalities and conditions, or admitting so much as the least vacancy, or interregnum, &c."

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from the beginning till the end of January; when such a panic seized on a sudden the monied men, that there was a great run upon the bank for some days. The directors sent four of their members to the Lord Treasurer, to represent the dangers, which threatened the public credit, and to desire his advice and assistance. The Treasurer received this application very favourably; endeavoured to dispel their fears; and promised to use his utmost endeavours to support the bank in this exigency. The doubts, which were still entertained about the queen's health, being one of the chief occasions of the public alarm, she, by the advice of her ministers, wrote the following Letter to sir Samuel Stanier, lord mayor of London:

'ANNE, *R.*

'Right trusty and well-beloved, we greet 'you well. Although an aguish indisposition, 'succeeded by a fit of the gout, has detained us 'at this place longer than we designed; yet 'since it has pleased Almighty God to re-'store us to such a degree of health, that we 'hope to be able soon to return to our usual 'residence, we continue determined to open 'our parliament on Tuesday the 16th of this 'instant February, according to the notice given 'by proclamation. Thus much we have judg-'ed proper to communicate to you, and by you 'to the court of aldermen, and to our loving 'subjects of our good city of London, to the 'intent that you may all, in your several sta-'tions, contribute to discountenance and put a 'stop to those malicious rumours, spread by 'evil-minded persons, to the prejudice of 'credit, and to the imminent hazard of the 'public peace and tranquillity. And so we bid 'you farewell. Given at our castle at Windsor, 'the 1st day of February, 1713, in the 12th 'year of our reign.—By her majesty's com-'mand,—BOLINGBROKE.'

"This Letter, and the news, which at the same time came from Holland, that the troops, which had been reported to be assembled in the Bolognese, were mere chimeras, and that the Pretender continued in Lorrain, dispelled the fears of the generality, and soon put a stop to the run upon the bank.*"

The queen, upon her recovery, being informed of the death of Dr. Sharp, archbishop of York, named sir William Dawes to that metropolitan see, which had been strongly solicited by bishop Atterbury. At the same time, Dr. Smallridge was made bishop of Bristol, and lord almoner to the queen, and Dr. Gastrell, preacher at Lincoln's Inn, bishop of Chester, in the room of sir William Dawes.

The controversy concerning the demolition of Dunkirk, the continuance of the War against the Catalans, who had rejected the terms procured for them by the Treaty between Great Britain and Spain, the surrender of Fribourg to the French, and the opening of a negociation for a Peace between the emperor and France, at Radstadt; were the most remarkable occurrences abroad during the Recess.

FIRST SESSION OF THE FOURTH PARLIAMENT OF GREAT-BRITAIN.

Meeting of the New Parliament.] Feb. 16, 1714. This day, the New-Parliament met at Westminster, and the Commons, at the desire of the Lords Commissioners appointed by her majesty, attending their lordships in the House of Lords, the Lord High Chancellor signified to them her majesty's pleasure, That they should forthwith proceed to the Choice of a fit person to be their Speaker, and present him the Thursday following.

* "While the nation was in this ferment, and under various apprehensions, there was published a remarkable pamphlet, intitled, 'The Art of Restoring; or the piety and probity of general Monk, in bringing about the last Restoration, evinced from his own authentic letters: with a just account of sir Roger, who runs the parallel as far as he can: in a letter to a minister of state at the court of Vienna.' This piece was levelled against the Treasurer, and contributed the more to render him obnoxious to the friends of the Protestant Succession, when it was known to be the performance of Mr. Toland, a person formerly intrusted and employed by that minister. To remove these suspicions, the Treasurer thought fit to have the reputed author of the late Treatise, asserting hereditary right, brought to his trial; and Bedford being found guilty of publishing that book, he was sentenced, 'to pay a fine of 1,000 marks; to be committed to the Queen's-Bench prison, till he paid the same: to remain in custody there for the term of three years; to find four sufficient sureties, who, with him, were to be bound in a recognizance of 5,000*l.* for his good behaviour during life.' He was also to be brought into all the courts of Westminster-hall, with a paper on his head denoting his offence. But, after sentence was passed, an order was produced from the government, counter-signed by a secretary of state, directing the judges of the Queen's-bench to supersede the ignominious part of the punishment, by reason of the sacred function of the criminal; which proceeding, as Mr. Lechmere observed in a speech, 'could bear no other construction, than as a license and protection to men in holy orders, to propagate that destructive position with impunity; and the character of the person, which ought in justice to have aggravated his guilt, and heightened his punishment, became his indemnity against the reproach of it, even by the authority of the government itself, against which that treatise was levelled. This indulgence appeared the more glaring, considering what severities were, at the same time, exercised against those persons, who had courage enough to assert the interest of their country, and of the Protestant Succession.'"

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List of the House of Peers.] The following is a List of the House of Peers as it stood at the opening of the New Parliament.

LIST OF THE PEERS.

Note, Those marked thus * were under age.

DUKES, &c.

Simon Harcourt, Lord Harcourt, Lord High Chancellor of Great-Britain.
Robert Harley, Earl of Oxford and Mortimer, Lord High-Treasurer of Great-Britain.
John Sheffield, Duke of Buckingham, and Normanby, Lord President of the Council.
William Leg, Earl of Dartmouth, Lord Privy Seal.
Thomas Howard, D. of Norfolk, Earl Marshal, and Hereditary Marshal of England.
John Poulet, Earl Poulet, Lord Steward of the Queen's Houshold.
Charles Talbot, D. of Shrewsbury, Ld. Chamberlain of the Queen's Houshold.
Charles Seymour, D. of Somerset.
Charles Fitz-Roy, D. of Cleveland and Southampton.
Charles Lenox, D. of Richmond.
Charles Fitz-Roy, D. of Grafton.
James Butler, D. of Ormond.
Henry Somerset, D. of Beaufort.
George Fitz-Roy, D. of Northumberland.
Charles Beauclair, D. of St. Albans.
Charles Pawlet, D. of Bolton.
Meinhartd Schonberg, D. of Schonberg.
Peregrine Osborne, D. of Leeds.
* Wriothesley Russel, D. of Bedford.
William Cavendish, D. of Devonshire.
John Churchill, D. of Marlborough.
John Manners, D. of Rutland.
John Montagu, D. of Montagu.
George Augustus, Prince Electoral of Hanover, D. of Cambridge.
* James Hamilton, D. of Hamilton and Brandon.
* Charles Douglas, D. of Dover.
Henry de Grey, D. of Kent.

MARQUISES.

Robert Bertie, Marquis of Lindsey, Ld. Great Chamberlain of England.
Evelyn Pierpont, M. of Dorchester.

EARLS.

James Stanley, Earl of Derby
* Theophilus Hasting, E. of Huntington
Thomas Herbert, E. of Pembroke and Montgomery
Henry Clinton, E. of Lincoln
Henry Howard, E. of Suffolk and Bindon, Deputy Earl Marshal of England
Lionel Cranfield Sackville, E. of Dorset and Middlesex
James Cecil, E. of Salisbury
John Cecil, E. of Exeter
Scroop Egerton, E. of Bridgewater
John Sidney, E. of Leicester
George Compton, E. of Northampton
* Edward Henry Rich, E. of Warwick and Holland
Basil Fielding, E. of Denbigh
Pawlet St. John, E. of Bolingbroke
Thomas Fane, E. of Westmorland
Charles Montagu, E. of Manchester
Henry Bowes Howard, E. of Berkshire
William Savage, E. Rivers
Charles Mordaunt, E. of Peterborough and Monmouth
Thomas Grey, E. of Stamford
Philip Stanhope, E. of Chesterfield
Thomas Tufton, E. of Thanet
Charles Spencer, E. of Sunderland
Nicholas Leak, E. of Scardale
Edward Montague, E. of Sandwich
Edward Hyde, E. of Clarendon
* William Capel, E. of Essex
George Brudenal, E. of Cardigan
Arthur Annesley, E. of Anglesey
Charles Howard, E. of Carlisle
Thomas Bruce, E. of Ailesbury
* Richard Boyle, E. of Burlington
* Anthony Ashly Cooper, E. of Shaftsbury
Edward-Henry Lee, E. of Litchfield
Thomas Lennard, E. of Sussex
Charles Bodvile Roberts, E. of Radnor
William Paston, E. of Yarmouth
James Berkley, E. of Berkley
Daniel Finch, E. of Nottingham
Montagu-Venables Bertie, E. of Abingdon
Baptist Noel, E. of Gainsborough
Robert Darcey, E. of Holderness
Other Windsor, E. of Plymouth
James Ratcliff, E. of Derwentwater
Henry Stafford Howard, E. of Stafford
Henry Bentinck, E. of Portland
Arthur Herbert, E. of Torrington
Richard Lumley, E. of Scarborough
George Booth, E. of Warrington
Richard Newport, E. of Bradford
Frederick Zulestein, E. of Rochford
Arnold Joost van Kepel, E. of Albemarle
* Thomas Coventry, E. of Coventry
Edward Russel, E. of Orford
William Villiers, E. of Jersey
Henry d'Auverquerque, E. of Grantham
John Campbell, E. of Greenwich (and D. of Argile)
Thomas Wharton, E. of Wharton
Francis Godolphin, E. of Godolphin
Hugh Cholmley, E. of Cholmley
Thomas Wentworth, E. of Strafford.

VISCOUNTS.

Price Devereux, Viscount Hereford
Henry Brown, Visc. Montacute
Lawrence Fienes, Visc. Say and Sele
Thomas Bellasyse, Visc. Falconberg
Charles Townshend, Visc. Townshend
Thomas Thynne, Visc. Weymouth.
William Hatton, Visc. Hatton
* Talbot Yelverton, Visc. Longueville
* Richard Lowther, Visc. Lonsdale
Henry St. John, Visc. Bolingbroke.

BARONS.

George Nevil, Ld. Abergaveny
* James Touchet, Ld. Audly
John West, Ld. De la War

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Robert Shirley, Ld. Ferrers
Charles Mildmay, Ld. Fitzwalter
* Edward Ward, L. Dudly and Ward
Edward Stourton, Ld. Stourton
George Verney, Ld. Willoughby of Broke
———Willoughby, Ld. Willoughby of Parham
Henry Paget, Ld. Paget and Burton
Thomas Howard, Ld. Howard of Effingham
William North, Ld. North, and Ld. Gray of Rolleston
James Bruges, Ld. Chandos
William Ferdinand Cary, Ld. Hunsdon
———St. John, Ld. St. John of Bletsho
* Thomas Petre, Ld. Petre
Thomas Arundel, Lord Arundel of Wardour
Rowland Dormer, Ld. Dormer
Henry Roper, Ld. Tenham
* William Grevil, Ld. Brook
* Nevil Lovelace, Ld. Lovelace
Banister Maynard, Ld. Maynard
Charles Howard, Ld. Howard of Escrick
Edward Leigh, Ld. Leigh
William Byron, Ld. Byron
William Widdrington, Ld. Widdrington
John Colepeper, Ld. Colepeper
Lewis Watson, Ld. Rockingham
Robert Sutton, Ld. Lexington
Marmaduke Langdale, L. Langdale
William Berkeley, Lord Berkeley of Stratton
Charles Cornwallis, Lord Cornwallis
Nathaniel Crew, Ld. Crew, and Ld. Bishop of Durham
* John Arundel, lord Arundel of Trerice
* William Craven, lord Craven
* Hugh Clifford, Ld. Clifford of Chudleigh
* William Henry Osborne, Ld. Osborne
John Carteret, Ld. Carteret
Charles Bennet, Ld. Ossulston
William Stawell, Ld. Stawell
Francis North, Ld. Guildford
James Waldgrave, Ld. Waldgrave
John Ashburnham, Ld. Ashburnham
William Farmer, Ld. Leimpster
Charles Butler, Ld. Butler of Weston
Hen. Herbert, Ld. Herbert of Cherbury
Maurice Thompson, Ld. Haversham
John Sommers, Ld. Sommers
Christopher Vane, Ld. Bernard
Charles Mountagu, Ld. Halifax
Heneage Finch, Ld. Guernsey
John Leverson Gower, Ld. Gower
Francis Seymour Conway, Ld. Conway
John Hervey, Ld. Hervey
William Cowper, Ld. Cowper
* Thomas Pelham, Ld. Pelham
James Compton, Ld. Compton
Charles Bruce, Ld. Bruce
George Hay, Lord Hay
Thomas Windsor, Ld. Windsor
Thomas Mansel, Ld. Mansel
Thomas Willoughby, Ld. Middleton
Thomas Trevor, Ld. Trevor
George Grandville, Ld. Lansdowne
Samuel Masham, Ld. Masham
Thomas Foley, Ld. Foley
Allen Bathurst, Ld. Bathurst
Robert Benson, Ld. Bingley

ARCHBISHOPS AND BISHOPS.

Dr. Thomas Tennison, Archbishop of Canterbury
Dr. John Sharp, Archbishop of York
Dr. John Robinson, Bishop of London
Dr. Nathaniel Crew, Bp. of Durham and Lord Crew
Sir Jonathan Trelawny, bart. Bp. of Winchester
Dr. William Lloyd, Bp. of Worcester
Dr. Gilbert Burnet, Bp. of Sarum
Dr. John Hough, Bp. of Litchfield and Coventry
Dr. John Moore, Bp. of Ely
Dr. Richard Cumberland, Bp. of Peterborough
Dr. Edward Fowler, Bp. of Gloucester
Dr. William Talbot, Bp. of Oxford
Dr. John Evans, Bp. of Bangor
Dr. William Nicolson, Bp. of Carlisle
Dr. George Hooper, Bishop of Bath and Wells
Dr. William Wake, Bp. of Lincoln
Dr. John Tyler, Bp. of Llandaff
Dr. Offspring Blackhall, Bp. of Exeter
Sir William Dawes, bart. Bp. of Chester
Dr. Charles Trimnel, Bp. of Norwich
Dr. William Fleetwood, Bp. of St. Asaph
Dr. Thomas Maningham, Bp. of Chichester
Dr. George Smallridge, Bp. of Bristol
Dr. Philip Bliss, Bp. of Hereford
Dr. Adam Ottley, Bp. of St. David's
Dr. Francis Atterbury, Bp. of Rochester

PEERS OF SCOTLAND.

Duke of Athol
Earl of Marr
Eglington
Kinnoule
Loudoun
Finlater & Seafield
Selkirk
Northesk
Earl of Dundonald
Brodalbine
Dunmore
Orkney
Roseberrie
Portmore
Kilsyth
Lord Balmerinoch.

List of the House of Commons.] The List of the Members of the House of Commons was as follows:

A LIST of the HOUSE OF COMMONS in the Fourth Parliament of Great-Britain, which met February 16, 1714.

Abington,
Sir Simon Harcourt.
Agmondesham,
Gerrard Drake,
James Herbett.
Albans, (St.)
William Grimston,
William Hale.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough, (Yorkshire)
John Dawney,
Paul Foley.
Allerton-North,
Henry Peirce,
John Smelt.
Andover,
William Guidott,
Gilbert Searle.
Anglesea,
Lord Bulkeley.
Apleby,
Thomas Lutwych,
Sir Richard Sandford.
Arundel,
Henry Obrian,
Richard Lumley.
Ashburton,
Roger Tuckfield,
Richard Reynell.
Aylesbury,
Simon Harcourt,
John Effington.

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Banbury,
Jonathan Cope.
Barnstaple,
Sir Arthur Chichester.
Sir Nicholas Hooper.
Bath,
John Codrington.
Robert Gay.
Beaumaris,
Henry Bertie.
Bedfordshire,
Sir Pincent Charnock.
John Harvey.
Bedford Town,
John Cater,
Samuel Rolt.
Bedwin,
Sir Edward Seymour,
Thomas Millington.
Berkshire,
Sir John Stonehouse,
Robert Packer.
Berwick Town,
Richard Hampden,
William Ord.
Beverley,
Sir Charles Hotham,
Sir Michael Wharton.
Bewdley,
Salway Winnington.
Bishop's Castle,
Sir Robert Raymond,
Richard Harnage.
Bletchingly,
George Evelyn,
Thomas Onslow.
Bodmin,
Francis Roberts,
Thomas Sclater.
Boralston,
Sir Peter King,
Lawrence Carter.
Boroughbridge,
Sir Brian Stapleton,
Edmund Dunch.
Bossiney,
Sir William Pole,
Paul Orchard.
Boston,
Richard Wynn,
Henry Heron.
Brackley,
William Egerton,
Paul Methuen.
Bramber,
Lord Hawley,
Andrew Windsor.
Brecon County,
Sir Edward Williams.
Brecon Town,
Roger Jones.
Bridgewater,
Nathaniel Palmer,
John Rolle.
Bridport,
William Coventry,
Hoskins Gifford.
Bristol,
Joseph Earle,
Thomas Edwards.
Bridgnorth,
William Whitmore,
John Weaver.
Buckinghamshire,
Lord Fermanagh,
John Fleetwood.
Buckingham Town,
John Radcliffe,
Thomas Chapman.
Calne,
William Hedges,
William Northey.
Cambridgeshire,
John Bromley,
John Jennings.
Cambridge Town,
Sir John Cotton,
Samuel Shepherd.
Cambridge University,
Dixey Windsor,
Thomas Paske.
Camelford,
Sir Boucher Wray,
James Nichols.
Canterbury,
John Hardress,
Henry Lee.
Cardiff,
Sir Edward Stradling.
Cardiganshire,
Thomas Jones.
Cardigan Town,
Sir George Barlow.
Carlisle,
Sir Christ. Musgrave,
Thomas Stanwix.
Carmarthenshire,
Sir Thomas Powel.
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
William Griffith.
Carnarvon Town,
Thomas Wynn.
Castle Rising,
William Fielding,
Horatio Walpole.
Cheshire,
Sir George Warburton,
Charles Cholmondeley.
Chester City,
Sir Henry Bunbury,
Peter Shackerly.
Chichester,
William Elton,
James Brudenel.
Chippenham,
John Norris,
John Eyles.
Chipping-Wicomb,
Sir John Whittewronge,
Sir Thomas Lee.
Christ's Church,
Sir Peter Mews,
William Ettricke.
Cirencester,
Thomas Master,
Benjamin Bathurst.
Clifton,
Sir William Drake,
Frederick Herne.
Clithero,
Thomas Lister,
Charles Stanley.
Cockermouth,
Joseph Musgrave,
Nicholas Lechmere.
Colchester,
Sir Thomas Webster,
Sir Isaac Rebow.
Corfcastle,
John Banks,
Richard Fownes.
Cornwall,
Sir William Carew,
John Trevanion.
Coventry,
Sir Christopher Hales,
Sir Fuller Skipwith.
Cricklade,
Sir Thomas Read,
Samuel Robinson.
Cumberland,
James Lowther,
Gilfred Lawson.
Denbighshire,
Sir R. Middleton.
Denbigh Town,
John Wynn.
Derbyshire,
John Curzon,
Godfrey Clark.
Derby Town,
Edward Munday,
Nathaniel Curzon.
Devizes,
Robert Child,
John Nicholas.
Devonshire,
Sir William Courtnay,
Sir Copleston Bampfield.
Dorsetshire,
Thomas Strangeways,
George Chaffin.
Dorchester,
Sir Nathaniel Napier,
Henry Trenchard.
Dover,
Sir William Hardress,
Philip Papillon.
Downton,
John Eyre,
John Sayer.
Droitwich,
Richard Foley,
Edward Jeffreys.
Durham County,
John Eden,
John Hedworth.
Durham City,
Thomas Conyers,
Robert Shafto.
Eastlow,
Sir Charles Hedges,
Edward Jennings.
Edmund's Bury,
Carr Hervey,
Awbery Porter.
Essex,
Sir Charles Barrington,
Sir Richard Child.
Evesham,
Sir Edward Goodere,
John Rudge.
Exeter,
John Rolle,
Francis Drew.
Eye,
Thomas Maynard,
Edward Hopkins.
Flintshire,
Sir John Conway.
Flint Town,
Sir R. Mostyn.
Fowey,
Henry Vincent,
German Wyche.
Gatton,
William Newland,
Paul Docminique.
Germans (St.)
Edward Elliot.
John Knight.
Glamorganshire,
Robert Jones.
Gloucestershire,
John Berkeley,
Thomas Stevens.
Gloucester City,
John Snell,
Charles Cox.
Grampound,
Thomas Cook,
Andrew Quick.
Grantham,
Sir John Brownlowe,
Sir John Thorold.
Grimsby,
Arthur Moore,
William Cotesworth.
Grimstead,
Spencer Compton,
John Conyers.
Guildford,
Sir Richard Onslow,
Morgan Randyl.
Harwich,
Carew Harvey,
Thomas Heath.
Haslemere,
George Vernon,
Nicholas Carew.
Hastings,
Archibald Hutchinson,
Sir Joseph Martin.
Haverford-west,
John Laugharn.
Helston,
Thomas Tomkins,
Alexander Pendarvis.
Herefordshire,
Lord Scudamore,
Sir Thomas Morgan.
Hereford City,
James Bridges,
Thomas Foley.
Hertfordshire,
Ralph Freeman,
Thomas Halsey.
Hertford Town,
Charles Cæsar,
Richard Goulston.
Heydon,
William Pulteney,
Hugh Cholmondely.
Heytesbury,
Edward Ash,
Peirce A Court.

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Higham Ferrers,
Charles Leigh.
Hindon,
Reynolds Calthorpe,
Richard Lockwood.
Honiton,
Sir William Drake,
James Shepherd.
Horsham,
Charles Eversfield,
John Middleton.
Huntingdonshire,
Sir Matthew Dudley,
Robert Piggot.
Huntingdon Town,
Lord Hinchinbrook,
Sidney Wortley.
Hythe,
Jacob Desbouverie,
John Boteler.
Ilcester,
Edward Philips,
Sir James Bateman.
Ipswich,
William Thompson.
William Churchill.
Ives, (St.)
Sir William Pendarvis,
John Hopkins.
Kellington,
Sir John Coryton,
Samuel Rolle.
Kent,
Sir Edw. Knatchbull,
Percival Hart.
Kingston,
Sir William St. Quintin,
William Maisters.
Knaesborough,
Christopher Stockdale,
James Hawkes.
Lancashire,
Sir John Bland,
Richard Shuttleworth.
Lancaster Town,
Robert Heysham,
William Heysham.
Lanceston,
John Anstis,
Edward Herle.
Leicestershire,
Lord Tamworth,
Sir Thomas Cave.
Leicester Town,
Sir George Beaumont,
James Winstanley.
Leominster,
Edward Harley,
Henry Gorges.
Leskard,
William Bridges,
Philip Rashleigh.
Lestwithiel,
Sir Thomas Clarges,
Erasmus Lewis.
Lewes,
Thomas Pelham,
John Trevor.
Lincolnshire,
Lord Willoughby,
Sir Willough. Hickman.
Lincoln City,
Thomas Lister,
John Sibthorpe.
Litchfield,
Richard Dyot,
John Coates.
Liverpool,
Sir Thomas Johnson,
William Clayton.
London,
Sir John Ward,
Sir Thomas Scawen,
Robert Heysham,
Peter Godfrey.
Ludlow,
Humphrey Walcott,
Acton Baldwyn.
Luggershall,
John Richmond,
Anthony Cornish.
Lyme Regis,
Henry Henley,
John Burridge.
Lymington,
Lord Pawlett,
Sir Joseph Jekyll.
Lynn-Regis,
Sir Charles Turner,
Robert Walpole.
Maidstone,
Sir Robert Masham,
Sir Samuel Ongley.
Malden,
John Comyns,
Thomas Bramston.
Malmsbury,
Sir John Rushout,
Joseph Addison.
Malton,
Thomas Wentworth,
William Strickland.
Marlborough,
Robert Bruce,
Gabriel Roberts.
Marlow,
Sir James Etheridge,
George Bruere.
Maxes, (St.)
Francis Scobell,
Edward Rolt.
Melcomb-Regis,
James Littleton,
William Betts.
Merioneth,
Richard Vaughan.
Midhurst,
John Pratt,
William Knight.
Middlesex,
James Bertie,
Hugh Smithson.
Milbourn,
Sir Thomas Treval,
James Medlycott.
Minehead,
Sir John Trevelyan,
Sir Jacob Banks.
Michael, (St).
Sir Henry Bellasis,
John Stratham.
Monmouthshire,
John Morgan,
Sir Charles Kemeys.
Monmouth Town,
Clayton Milbourn.
Morpeth,
Sir John Germaine,
Oyley Dougias.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
John Pugh.
Newark,
Richard Sutton,
Richard Newdigate.
Newcastle, (Staffordsh.)
Rowland Cotton,
William Burslem.
Newcastle (Northum.)
Sir William Blacket,
William Wrightson.
Newport, (Cornwall)
Sir Nicholas Morrice,
Humphrey Morrice.
Newport, (Hants.)
John Webb,
William Stevens.
Newton, (Lancash.)
John Ward,
Abraham Blackmore.
Newton, (Hants.)
James Worsley,
Henry Worsley.
Norfolk County,
Sir Edward Bacon,
Sir Jacob Astley.
Northampton,
Sir Justinian Isham,
Thomas Cartwright.
Northampton Town,
George Montagu,
William Wykes.
Northumberland,
Algernoon Seymour,
Francis Delavall.
Norwich,
Robert Bene,
Richard Berney.
Nottinghamshire,
Francis Willoughby,
William Levinz.
Nottingham Town,
Robert Sacheverell,
Borlace Warren.
Okehampton,
Christopher Harris,
William Northmore.
Orford,
Sir Edward Turner,
Clement Corrance.
Oxfordshire,
Sir Robert Jenkinson,
Francis Clerke.
Oxford City,
Sir John Walter,
Thomas Rowney.
Oxford University,
William Bromley,
Sir William Whitlock.
Pembrokeshire,
John Barlow.
Pembroke Town,
Lewis Wogan.
Penryn,
Hugh Boscawen,
Samuel Trefusis.
Peterborough,
John Fitzwilliams,
Charles Parker.
Petersfield,
Leonard Bilson,
Norton Powlett.
Plymouth,
Sir John Rogers,
Sir George Byng.
Plympton,
George Treby,
Richard Edgcomb.
Pool,
Sir William Lewen,
George Trenchard.
Pontefract,
Robert Frank,
John Dawney.
Portsmouth,
Sir James Wishart,
Sir Thomas Mackworth.
Preston,
Edward Southwell,
Henry Fleetwood.
Queenborough,
Thomas King,
Charles Fotherby.
Radnor County,
Thomas Harley.
Radnor Town,
Lord Harley.
Reading,
Felix Calvert,
Robert Clarges.
Retford,
Francis Lewis,
John Digby.
Richmond,
John Yorke,
Harry Mordaunt.
Rippon,
John Aislaby,
John Sharpe.
Rochester,
Sir John Leak,
William Cage.
Romney,
Edward Watson,
Sir John Furnese.
Rutlandshire,
Lord Finch,
Lord Sherrard.
Rye,
Sir John Norris,
Philip Gibbon.
Ryegate,
Sir John Parsons,
James Cocks.
Salop County,
Lord Newport,
John Kynaston.
Salop Town,
Thomas Jones,
Edward Cresset.
Saltash,
William Shippen,
Jonathan Elford.
Sandwich,
John Mitchell,
Sir Henry Oxenden.
Sarum New,
Richard Jones,
Sir Stephen Fox.
Sarum, Old
Thomas Pitt,

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Robert Pitt.
Scarborough,
William Thompson,
John Hungerford.
Seaford,
William Lowndes,
John Naylor.
Shaftsbury,
Henry Whitaker,
Edward Nicholas.
Shoreham,
Nathaniel Gould,
Francis Chamberlayne.
Somersetshire,
Sir William Wyndham,
Thomas Horner.
Southampton County,
Thomas Lewis,
Sir Anthony Sturt.
Southampton Town,
Richard Flemming,
Roger Harris.
Southwark,
John Lade,
Fisher Trench.
Staffordshire,
Ralph Snead,
Henry Vernon.
Stafford Town,
Walter Chetwynd,
Henry Vernon.
Stamford,
Charles Cecil,
Charles Bertie.
Steyning,
Harry Goring,
William Wallis.
Stockbridge,
Thomas Broderick,
James e. of Barrimore.
Sudbury,
Sir Harvey Elwys,
Robert Echlyn.
Suffolk,
Sir Thomas Hanmer,
Sir Robert Davers,
Surrey,
Heneage Finch,
Sir Richard Onslow.
Sussex,
Henry Champion,
John Fuller.
Tamworth,
Joseph Girdle,
Samuel Bracebridge.
Tavistock,
Sir John Cope,
James Bulteel.
Taunton,
Sir Francis Warre,
Henry Portman.
Tewksbury,
William Dowdeswell,
Charles Dowdeswell.
Thetford,
Sir William Barker,
Dudley North.
Thirsk,
Thomas Frankland,
Ralph Bell.
Tiverton,
Sir Edward Northey,
Thomas Bere.
Totness,
Francis Gwynn,
Stephen Northleigh.
Tregony,
Sir Edmund Prideaux,
James Craggs.
Truro,
Thomas Hart,
William Collier.
Wallingford,
Richard Bigge,
Thomas Renda.
Warwickshire,
Sir John Mordaunt,
Andrew Archer.
Warwick Town,
Doddington Grevill,
William Colemore.
Wareham,
Thomas Erle,
George Pitt.
Wells,
Sir Thomas Wroth,
Maurice Berkeley.
Wendover,
Sir Roger Hill,
James Stanhope.
Wenlock,
Sir William Forrester,
Richard Newport.
Weobly,
John Birch,
Uvedale Price.
Westbury,
Henry Bertie,
Francis Annesley.
Westlow,
Sir Charles Wager,
John Trelawney.
Westminster,
Sir Thomas Cross,
Thomas Medlicott.
Westmoreland,
James Graham,
Daniel Wilson.
Weymouth,
Daniel Harvey,
John Baker.
Whitchurch,
Frederick Tilney,
Thomas Vernon.
Winchelsea,
George Doddington,
Robert Bristow.
Winchester,
John Popham,
Charles Bridges.
Windsor,
Christopher Wren,
Charles Aldworth.
Wilton,
John London,
Thomas Pitt.
Wiltshire,
Sir Richard How,
Robert Hyde.
Woodstock,
Sir Thomas Wheate,
William Cadogan.
Wooton Bassel,
Richard Creswell,
Edmund Pleydell.
Wigan,
Sir Roger Bradshaigh,
George Keniton.
Worcestershire,
Sir John Packington,
Samuel Pitts.
Worcester City,
Thomas Wylde,
Samuel Swift.
Yarmouth (Norf.)
Richard Ferrier,
George England.
Yarmouth (Hants.)
Henry Holmes,
Gilbert Dolben.
Yorkshire,
Lord Downe,
Sir Arthur Kay.
York City,
Sir William Robinson,
Robert Benson.

Sir THOMAS HANMER, Speaker.

Sir Thomas Hanmer chosen Speaker.] The Commons being returned to their House,

Sir *Arthur Kay* acquainted them, "That her majesty had directed them to proceed to the choice of a Speaker: that he conceived a person fitted for that high trust must be one of great temper, who would hear with candour, what every gentleman had to offer for the service of her majesty and the public: that he ought to be a person unquestionably true to the interest of the church of England; upon which the safety of the state depends: and, as he took this opportunity to express his satisfaction in the choice of the last Speaker, who would ever be an honour to those who chose him, and whose conduct ought to convince the world, that nothing can more effectually make this kingdom safe, than the same principles; so, to succeed that honourable gentleman, he took leave to propose another of the like character, whose sincere adherence to our constitutions, whose affection to the house of Hanover, whose conduct, integrity, and ability, were so well known, that he needed only take leave to propose him: And he named sir Thomas Hanmer *."

After which the Lord *Scudamore* said, "That he could add nothing to that gentleman's character; and therefore should only second the motion." Mr. Thomson and Mr. Onslow agreed in the same motion.

Mr. *Richard Steele* took upon him to say he had the same honourable sentiments of that gentleman, in the following words, "At the close of the last parliament, her majesty was graciously pleased to declare from the throne, that the late rejected Bill of Commerce between Great Britain and France, should be offered to this House. That declaration was certainly made, that every gentleman who should have the honour to be returned hither, might make himself master of that important ques-

* "Sir Thomas Hanmer, a statesman, born 1676, and educated at Westminster school, and Christ Church, Oxford. He was for 30 years member of parliament as representative of either Suffolk, Flintshire or Thetford, and in 1713 he was chosen Speaker, an office which he adorned by dignity of deportment, commanding eloquence, and great impartiality. He retired from public life, and devoted himself to literary pursuits. He published an edition of Shakespeare, in an elegant and magnificent stile, which he presented to the university of Oxford, in 6 vols. 4to. He died at his seat, Suffolk, 5th April, 1746."

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tion. It is demonstration that was a most pernicious bill, and no man can have a greater merit to this House than his, by whose weight and authority that pernicious bill was thrown out. I rise up to do him honour* in some measure, and distinguish myself, by saying, I wish him our Speaker, for that his inestimable service to his country."

Sir *Thomas Hanmer* then stood up in his place; and acknowledged the obligation he had to those gentlemen who had thought him worthy to be mentioned upon that occasion; but said, "He was sure there were many others present, with whom he had had the honour to sit in former parliaments, who could witness for him, how unequal he was to such an undertaking. That it was true, he had been a member of the House long enough to have qualified himself better for the service of it; but the experience he had got served only to deter him, by making him sensible of the great difficulties which attended the chair, without giving him improvements sufficient for it. That he had always found the duty of a private member to be nice and difficult enough; but the mistakes of a single person could be of little consequence to the public; whereas, in the service of the chair, it was necessary to bring proportionable abilities, as well as honest intentions; otherwise the business, both of the queen and kingdom, would suffer by it. That it would be a great concern to him to be the occasion of any impediment or prejudice to the public affairs by those imperfections which it would not be in his power to help; and therefore he desired the House would think of calling some other gentleman to the chair, of better abilities, to answer the expectations which they ought justly to have from him whom they should appoint to serve them in that station."

But the House unanimously called upon him, To the Chair: Whereupon, sir Arthur Kay and the lord Scudamore, took him out of his place, and led him up the House from the bar to the Chair: Where, upon the steps, he said, It was not yet too late for gentlemen to alter their resolution; and begged leave to repeat his just excuses, and to assure them, that no one ever came so near the chair who was so little qualified to do the duty of it; and therefore he hoped they would consult their own honour and service, by turning their thoughts to a better choice. But the House cried, No, no. Whereupon he took the chair, and said, Though the House would not allow of his excuse, he hoped they would be pleased to permit him to intercede with her majesty to command them to proceed to another election. The members cried, No, no. And then the mace was laid upon the table. After which

Mr. Secretary *Bromley* said, "He congratulated the House and the public, for the good choice they had made of one who brought with him abilities, not only to fill, but to adorn, the chair. That he understood it was her majesty's pleasure, the House should present their Speaker on Thursday; and therefore moved to adjourn till that day."

The Speaker's Speech on being presented, and approved of.] Feb. 13. The Lords Commissioners being seated on a form placed between the throne and the woolsack; the Lord Chancellor commanded the Usher of the Black Rod to go to the House of Commons, and desire their attendance in the House of Peers. Who being come;

The *Speaker* elect spake to the effect following:

"My Lords; The knights, citizens, and burgesses, of Great Britain, assembled in parliament, by virtue of her majesty's writ, and directed, by her royal command, to proceed to the choice of a Speaker, have cast their first hasty nomination upon one the most unworthy of their number; commanding me to present myself to her majesty, as the person they have hitherto thought of calling to that service.—It is an honour, and a duty, which no good subject ought to decline, who could hope so to acquit himself in that station as to be instrumental to the public service, and to the great ends of her majesty's government: But the trust is so important, and the task so difficult, that none should presume to undertake it, without abilities sufficient for the due discharge of it.—The many imperfections I am conscious of in myself make me justly apprehend the great prejudice which the business of parliament would receive from my weak performances, in a station upon which the good dispatch of it does very much depend: and therefore, from this unadvised step of the House of Commons (which I hope is the only one they will be guilty of), I must make my humble appeal to the throne, the last resort of justice; where the errors of all inferior judgments are reversed: And I desire, with all duty, to offer my petition to her majesty, That, for her own service and satisfaction, for the better success of those arduous and urgent affairs which have induced her to call this parliament, and for the honour of the House of Commons, she will be pleased to order them to re-consider this their

* At these words, the light-headed part of the House clamoured out, 'The Tatler! the 'Tatler!' For Mr. Steele's Account of the manner in which this Speech was received, see his 'Apology' at p. 1275.

"Whatever reception this speech met with in that honourable assembly, it is certain that a set of men, who for some years past, have made it their business to turn the best men and things into jest and ridicule, endeavoured to expose it, without foolishly carping at Mr. Steele's expression of 'Rising up to do sir Thomas 'Hanmer honour.' But, to all men of sense and learning, they only exposed their own ignorance, both of the beauties of the English tongue, and of true Latin; 'To rise up to do 'one honour,' being an elegant allusion to '*Assurgere alicui*,' a common expression among the old Romans, signifying the same thing Mr. Steele meant in English." Political State.

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resolution, and to come again, prepared to present some other person to her majesty more worthy of their choice, and of her royal acceptance and approbation." Whereupon

The *Lord Chancellor* said:

"Sir Thomas Hanmer, The queen could expect no less from an House of Commons composed of so many dutiful and affectionate subjects, whose interest in their country is an unquestionable pledge of their true concern for it, than the choice of a person for their Speaker equally qualified for that important trust, by a just regard for her prerogative, and an hearty zeal for the welfare of her people. She commands us, sir, to tell you, That on both these accounts their choice of you to be their Speaker is acceptable to her; and, therefore, that she approves and confirms it."—After which

The *Speaker* replied:

"My Lords; Whatever other feelings belong to me, there shall be no defect in my obedience to her majesty; and since she is graciously pleased to think me worthy of these commands, it is my duty to endeavour to make myself as little unworthy of them as I can:—The sincerity of my intentions, and my zeal for her majesty's and the public service, will be sure to guard me from all wilful errors: And as I rely upon her majesty's great goodness for the pardoning my involuntary mistakes; so I will comfort myself yet further with this hope, that the wants and imperfections of one of the meanest of her subjects can never be of moment enough to interrupt the signal prosperity of her reign, or do any considerable prejudice to the public affairs, whilst her great wisdom presides and watches over them.—Under these encouragements, I will with all diligence, and according to the best of my abilities, apply myself to the discharge of this great trust; and I shall account myself happy, if, in so public a post, I may be able to give any more open and apparent proofs of that loyalty and fidelity to her majesty's person and government, and that love and value for the constitution and liberties of this kingdom, which in my private station, as a subject and an Englishman, I have always proposed to myself as the rule of my actions.—In pursuance therefore of my duty, and as the first act of that trust which I am commanded to undertake, I beg leave, by way of humble petition to her majesty, in the name of the Commons of Great Britain, to lay claim to all their ancient and accustomed rights, privileges, and immunities; particularly, That, for their better attendance upon the public service, they, and their necessary servants, may be free, in their persons and estates, from all arrests, suits, and molestations: That they may be allowed freedom of speech in their debates; That, upon all occurrences of moment, and at times convenient to her majesty, she will be pleased to vouchsafe them access to her royal person: And that all their proceedings may be free from misconstruction, and receive the most favourable interpretation." Then

The *Lord Chancellor* said;

"Mr. Speaker, We are commanded by her majesty to assure you of her support in the discharge of your duty; and to let you know, That her majesty is graciously pleased to grant to the House of Commons all the privileges you ask in their name, as fully as they have been at any time granted by her majesty, or any of her royal predecessors."

After this, both Houses adjourned to the 2d of March.

Peace with Spain proclaimed.] During the adjournment, were brought over from Holland the Ratifications exchanged of the Treaty of Commerce between Great-Britain and Spain; and the Peace was proclaimed on the 1st of March. The chief Articles were, France and Spain were never to be united: the Protestant Succession acknowledged, and never to be opposed on any pretence: navigation and commerce, as in the Treaty of 1667: no licence to be given to the French or other nations to introduce negroes, or any merchandises, into the Spanish dominions in America, except what might be agreed by the Treaty of Commerce, and the privileges granted in the Assiento de Negroes; except also what should be granted by the Catholic kings after the Assiento de Negroes should be determined: the American dominions were not to be alienated from the crown of Spain, to the French or other nation: Gibraltar and the island of Minorca were given up for ever to England: no Moors to come there, but on account of traffic: all the Spanish inhabitants to enjoy their estates and religion; or to sell their estates and retire: the South-Sea company to have the privilege, inclusive of others, to introduce negroes into several parts of America for 30 years, beginning from 1713, in the same manner as enjoyed by the French; the Catalans to have a full pardon, with the possession of all their privileges, estates, and honours, and likewise the same privileges with the inhabitants of both Castiles; Sicily was yielded to the duke of Savoy, but to return to Spain, in case of no heirs. By two separate Articles, the queen promised to persist in the measures, by which she had taken care that no other part of the Spanish monarchy should be torn from it: and obliged herself to procure the princess Ursini to be put into possession of Limburg, or some other country in the Netherlands, which should produce 30,000 crowns a year, pursuant to a grant from king Philip, September 28, 1711.

The Queen's Speech on opening the Session.] The queen went in a chair to the House of Lords, and made the following Speech to both Houses:

"My Lords and Gentlemen,

"I have much satisfaction in being able, at the opening of the parliament, to tell you, that the Ratifications of the Treaties of Peace and of Commerce with Spain are exchanged, by which my subjects will have greater opportunities than ever to improve and extend their trade. Many advantages, formerly enjoyed by connivance, and procured by such methods

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as made a distinction between one British merchant and another, are now settled by Treaty, and an equal rule is established.—It has pleased God to bless my endeavours to obtain an honourable and advantageous Peace for my own people, and for the greatest part of my allies. Nothing, which I can do, shall be wanting to render it universal; and I persuade myself, that, with your hearty concurrence, my interposition may at last prove effectual to compleat the settlement of Europe.

"In the mean while, I congratulate with my own subjects that they are delivered from a consuming land-war and entered on a Peace, the good effects whereof nothing but intestine divisions can obstruct.

"It was the glory of the wisest and greatest of my predecessors to hold the balance of Europe, and to keep it equal, by casting in their weight as necessity required. By this conduct they inriched the kingdom, and rendered themselves dreadful to their enemies, and useful to their friends. I have proceeded on the same principle, and I doubt not but my successors will follow these examples.

"Our situation points out to us our true interest; for this country can flourish only by trade, and will be most formidable by the right application of our naval force.

"Gentlemen of the House of Commons,

"I have ordered such Accounts to be prepared and laid before you, as will shew you, at the conclusion of the War, the true state of your condition, whereby you will be better able to judge what aids are necessary: and I only ask of you supplies for the current service of the year, and for the discharge of such debts as you shall find, on examination, to be just and reasonable.

"My Lords and Gentlemen,

"The joy, which has been generally expressed on my recovery from my late indisposition, and on my coming to this city, I esteem as a return to that tender affection which I have always had for my people.—I wish that effectual care had been taken, as I have often desired, to suppress those Seditious Papers and factious rumours, by which designing men have been able to sink credit, and the innocent have suffered.—There are some, who are arrived to that height of malice, as to insinuate that the Protestant Succession in the House of Hanover is in danger under my government. —Those who go about thus to distract the minds of men with imaginary dangers, can only mean to disturb the present tranquillity, and bring real mischief upon us.—After all I have done to secure our religion and your liberties, and to transmit both safe to posterity, I cannot mention these proceedings without some degree of warmth; and I must hope you will all agree with me, that attempts to weaken my authority or to render the possession of the crown uneasy to me, can never be proper means to strengthen the Protestant Succession.—I have done, and shall continue to do my best for the good of all my subjects. Let it be your endeavour, as it shall be mine, to unite our differences, not by relaxing from the strictest adherence to our constitution in Church and State, but by observing the laws yourselves, and inforcing a due obedience to them in others.—A long war has not only impoverished the public (however some particular men have been gainers by it) but has also greatly affected government itself. —Let it be your care so to improve the present opportunity, as to lay the foundation of recovering from those disorders.—I had the concurrence of the last parliament in making the Peace. Let it be the honour of this to assist me in obtaining such fruits from it, as may not only derive blessings on the present age, but even down to the latest posterity."

The Lords' Address thereon.] The Lords agreed upon the following Address:

"Most Gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, beg leave to approach your royal person with the greatest respect, to return the humble thanks of this House to your majesty, for your most gracious Speech from the throne.—We chearfully embrace this opportunity of assuring your majesty, that the joy our hearts are filled with, upon your recovery from your late indisposition, cannot sufficiently be expressed; and that our fervent prayers to Almighty God shall never be wanting, that your majesty's reign may exceed in number of years, and in all manner of happiness, that of the longest and most prosperous of any of your royal predecessors, as that which will best conduce to the happiness and satisfaction of the most dutiful subjects to the best of queens.—It is with the greatest pleasure, and the utmost gratitude, that this House receives the communication your majesty is pleased to give them, that the ratifications of your Treaties of Peace and Commerce with Spain are exchanged; and that we are, by your majesty's great wisdom and goodness, at last delivered from that consuming land war, the burthens and ill consequences whereof, we are sensible, nothing can remove or prevent, but a right improvement of the present opportunity; and it shall be our endeavour, as we are satisfied it will be your majesty's, to unite our differences, not by relaxing from the strictest adherence to our constitution in church and state, but by observing the laws ourselves, and, to the utmost of our power, enforcing a due obedience to them in others.—And we do assure your majesty, that this House will most heartily concur with your majesty in all proper methods to compleat the settlement of Europe; and we will use our utmost endeavours to discourage and discountenance all attempts to weaken your majesty's authority, or to render the possession of the crown uneasy to you.—We acknowledge, with hearts full of duty and thankfulness, that great care which your majesty has taken, during the whole course of your reign, to secure our religion and liberties, and to transmit both safe to posterity.—It is with the ut-

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most detestation, that we reflect on the proceedings of those men, who, by spreading seditious papers and factious rumours, have been able to sink credit, and thereby to involve the innocent in the ill consequences of their iniquity; and more particularly of those who have attained to that height of malice, as to insinuate that the Protestant Succession in the house of Hanover is in danger under your government."

The Queen's Answer.] Her majesty gave this Answer:

"My lords; I return you my most hearty thanks, for your very affectionate Address.—You, who are nearest to the throne, will first of all my subjects feel the evil consequences of any diminution of the regal dignity.—It is a great comfort to me, that I have your assurance of support.—Depend upon it, I will never give way to the least attempt, either on the just authority of the crown, or on your rights and privileges."

The Commons' Address.] The Commons being returned to their House, Mr. Gore moved, That an humble Address be presented her majesty, for her gracious Speech; which was resolved accordingly, without any opposition. Sir Peter King only suggested, "That they ought not to act by a spirit of divination, and return thanks for the treaty of commerce with Spain, before they knew, whether the same was advantageous or no." Which occasioned some modification in the Address, which was as follows:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, do with all humility, return our sincere and hearty thanks for your majesty's most gracious Speech from the throne.—We beg leave to assure your majesty, that as nothing could be more afflicting to your people, than the indisposition of the best of sovereigns, so nothing has ever been an occasion of greater joy and satisfaction to them than your majesty's late happy recovery.—We congratulate your majesty on the conclusion of the Treaties of Peace and Commerce with Spain, whereby your majesty is pleased to declare, that you have procured new benefits to your subjects; But your royal care hath not been confined to your own people; it hath been extended to all your allies: And your majesty's goodness must be for ever admired, That, notwithstanding any discouragements you may have met with, you are pleased still to continue your endeavours to make the Peace universal, and thereby to complete the settlement of Europe: And your faithful Commons will never be wanting in an hearty concurrence to assist your majesty in all such measures as your majesty shall judge proper to finish a design, so great and so glorious.—Your Commons will, with all chearfulness, grant such supplies as are necessary for the current service, and for the discharge of such debts as are just and reasonable: They can never sufficiently express the sense they have of their happiness, in being delivered from the calamities of a consuming war: They will therefore, in duty to your majesty, and in justice to those they represent, do all that is in their power, that the good effects of Peace may not be obstructed by any intestine divisions: They will, as far as in them lies, disappoint the designs of malicious and unreasonable men: They will, on all occasions, shew their just abhorrence of the licentious practices, in publishing scandalous papers, and spreading seditious rumours: And, as your Commons will always support and maintain the Protestant Succession in the House of Hanover, they cannot but be astonished at the malicious insinuations of any, who would suggest that Succession to be in danger under your majesty's most auspicious government: For when we consider, that it is secured by the greatest obligations, civil and sacred; by acts of parliament, oaths, and treaties; we cannot but declare our intire acquiescence in these securities; and must look upon such insinuations to be groundless in themselves, and affronting to your majesty, and your government:—And your majesty may depend, that your loyal Commons will never be prevailed on by any pretences whatsoever to countenance attempts that may tend to weaken your majesty's authority, and to render the possession of the crown uneasy to you; which can only proceed from the rage of a disappointed faction, and the spirit of rebellion."

The Queen's Answer.] Her majesty gave this Answer:

"Gentlemen; This Address is so dutiful, and expresses so fully the sense of my loyal subjects, that I esteem it a proof of the good choice they have made of you to represent them.—I give you my hearty thanks for it. The confidence you have in my affection, the abhorrence you declare of the malicious insinuations of the Protestant Succession being in danger under my government, and your acquiescence in the present securities for it, are very suitable returns for the tender regard I have always had for what concerns my people; and will most effectually, by the blessing of God, unite the minds of my subjects, and disappoint the designs of those who would disturb the present tranquillity."

Complaint in the House of Lords against a Libel written by Dr. Swift, called, "The*

* "This Libel was written in the ludicrous and sarcastic strains of "The Tale of a Tub." After some scurrilous reflections on Mr. Steele, and occasionally on the earl of Nottingham, with some jests on the implicit munificence of the subscribers to the Crisis: the Author attacks the Union, reflects on the whole Scots nation, and, without reserve, insults the duke of Argyle, who of late had broken all measures with the ministry. This piece was generally looked upon as very impolitic and ill-timed; since the sixteen Scots peers, who sat in the

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Public Spirit of the Whigs."] March 2. The earl of Wharton made a Complaint in the House of Lords against a Scandalous Libel, entitled, "The Public Spirit of the Whigs," set forth in their "generous encouragement of "the Author of the Crisis, with some Observations on the Seasonableness, Candor, Erudition and Stile of that Treatise. Printed "for John Morphew, near Stationer's-Hall, "1714." In which the Passage that gave most offence to the Lords, is as follows:

"This work, (meaning the Union of the two kingdoms) he tells us, was unsuccessfully attempted by several of her majesty's predecessors; though I do not remember it was ever thought on by any, except king James 1, and the late king William. I have read, indeed, that some small overtures were made by the former of these princes towards an Union between the two kingdoms, but rejected with indignation and contempt by the English. And the Historian tells us, that how degenerate and corrupt soever the court and parliament then were, they would not give ear to so infamous a proposal. I do not find that any of the succeeding princes, before the Revolution, ever resumed the design; because it was a project for which there could not possibly be assigned the least reason or necessity: for I defy any mortal to name one single advantage that England could ever obtain from such an Union. But towards the end of the late king's reign, upon apprehension of the want of issue from him, or the princess Anne, a proposition for uniting both kingdoms was begun, because Scotland had not settled their crown upon the House of Hanover, but left themselves at large, in hopes to make their advantage: and it was thought highly dangerous to leave that part of the island, inhabited by a poor, fierce, northern people, at liberty to put themselves under a different king. However, the opposition to this work was so great, that it could not be overcome till some time after her present majesty came to the crown; when, by the weakness or corruption of a certain minister, since dead, an act of parliament was obtained for the Scots, which gave them leave to arm themselves, and so the Union became necessary; not for any actual good it could possibly do us, but to avoid a probable evil; and at the same time, save an obnoxious minister's head, who was so wise, as to take the first opportunity of procuring a general pardon by act of parliament, because he could not with so much decency or safety desire a particular one for himself. These facts are well enough known to the whole kingdom; and I remember, discoursing above six years ago with the most considerable person of the adverse party, and a great promoter of the Union, he frankly owned to me, that this necessity brought upon us by the wrong management of the earl of Godolphin, was the only cause of the Union.

"Therefore I am ready to grant two points to the Author of the Crisis: 1st, That the Union became necessary for the cause above related; because it prevented the island from being governed by two kings, which England would never have suffered; and it might probably have cost us a war of a year or two to reduce the Scots. 2dly, That it would be dangerous to break this Union, at least in this juncture, while there is a Pretender abroad, who might probably lay hold of such an opportunity. And this made me wonder a little at the spirit of faction last summer among some people, who having been the great promoters of the Union, and several of them the principal gainers by it, could yet proceed so far, as to propose in the House of Lords, that it should be dissolved; while at the same time, those peers who had ever opposed it in the beginning, were then for preserving it, upon the reason I have just assigned, and which the Author of the Crisis hath likewise taken notice of.

"But when he tells us, the Englishman ought, in generosity, to be more particularly careful in preserving this Union, he argues like himself. The late kingdom of Scotland, (saith he) had as numerous a nobility as England, &c. They had, indeed, and to that we owe one of the great and necessary evils of the Union upon the foot it now stands. Their nobility is indeed so numerous, that the whole revenues of their country would be hardly able to maintain them according to the dignity of their titles; and what is infinitely worse, they are never likely to be extinct, till the last period of all things, because the greatest part of them descend to heirs general. I imagine, a person of quality prevailed on to marry a woman much his inferior, and without a groat to her fortune, and her friends arguing, she was as good as her husband, because she brought him as numerous a family of relations and servants, as she found in his house. Scotland in the taxes is obliged to contribute one penny for every forty pence laid upon England; and the representatives they send to parliament are about a thirteenth: every Scotish peer has all the privileges of an English one, except that of sitting in parliament, and even precedence before all of the same title that shall be created for the time to come. The pensions and employment possessed by the natives of that country now among us, do amount to more than the whole body of their nobility ever spent at home; and all the money they raise upon the public is hardly sufficient to defray their civil and military lists. I could point out some with great titles, who affect to appear very vigorous for dissolving the Union, though their whole reve-

House of Lords, and who (at least there) were the principal support of those at the helm, were involved in the general reflections on the Scots nation." Tindal.

"On the first publication of this pamphlet, all the Scots lords then in London went in a body, and complained to the queen of the affront put on them and their nation by the Author of this Treatise." Orrery.

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nues, before that period, would have ill maintained a Welch justice of the peace; and have since gathered more money than ever any Scotsman, who had not travelled, could form an idea of."

The Publisher and Mr. Barber ordered into Custody.] This Complaint being warmly espoused by the majority of the House of Peers, the Lord Treasurer protested he knew nothing of that pamphlet; exclaimed against the malicious insinuations contained in it; and readily joined with the House in an order for committing John Morphew, the Publisher, to the custody of the Black-Rod. Mr. Morphew upon this Examination, having declared, that an unknown porter had brought to his House the copies of the pamphlet in question, from the House of John Barber, Printer of the Gazette, and of the Votes of the House of Commons; the said John Barber was also ordered into the custody of the Black-Rod; and both he and Morphew, were, on Friday, the 5th of March, severally examined at the bar of the Lords' House. Mr. Morphew made the former declaration, and owned the publishing and selling of that Libel, but Mr. Barber said, he knew nothing of it; and insisted not to answer any questions, the answer to which might tend to accuse himself, or to corroborate the accusation against him.

They being withdrawn, the earl of Wharton said, "They had nothing to do either with the Publisher or Printer, but that it highly concerned the honour of that august assembly to find out the villain, who was the Author of the false and scandalous libel, in order to do the Scotish nation justice:" and thereupon moved, That in order to that discovery, Barber might be again examined the next day, together with his journey-men and servants: the same was readily agreed to; but on the 6th of March, the earl of Marr, one of the secretaries of State, acquainted the House, That he had already ordered John Barber to be prosecuted, which put a sudden stop to all farther enquiries about that matter, in a parliamentary way *."

* Lord Treasurer Oxford in a letter to Dr. Swift says, "I have heard that some honest men, who are very innocent, are under trouble, touching a printed pamphlet. A friend of mine, an obscure person, but charitable, puts the enclosed bill in your hands to answer such exigencies as their case may immediately require. And I find he will do more, this being only for the present." This Letter is thus endorsed by Swift: "Lord Treasurer Oxford's letter to me in a counterfeit hand with the bill when the printers were prosecuted by the House of Lords for a pamphlet. Letter with bill of 100*l.* Received March 14, 1713-14."

"Barber the Printer was some time ago, in great distress, upon printing a pamphlet, of which evil tongues would needs call me the author: he was brought before your house, which addressed the queen in a body, who kindly published a proclamation with 300*l.* to discover. The fault was calling the Scots 'a fierce 'poor northern people.' So well protected are those who scribble for the government." Swift to the earl of Peterborough, May 18, 1714.

The Lords Address to the Queen thereon.] Three days after, Barber and Morphew were, upon their humble petition, enlarged from the custody of the Black-Rod; and the same day the Lords resolved upon an Address to the Queen about that matter; which was on the 15th presented as follows:

"Most gracious Sovereign;

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, beg leave humbly to represent to your majesty, that we have begun our endeavours to suppress seditious papers (which your majesty was pleased to take notice of in your most gracious Speech from the throne) by applying ourselves to discover the Author, Printer, and Publisher of a pamphlet, entitled, 'The Public Spirit of the Whigs, set 'forth in their generous encouragement of the 'author of the Crisis, with some observations 'on the seasonableness, candour, erudition, and 'style of that treatise. London, printed for 'John Morphew near Stationer's-Hall, 1714.' Which we conceive to be a false, malicious and factious libel, highly dishonourable and scandalous to your subjects of Scotland, tending to the destruction of the constitution, and (by making false and unjust reflections upon the Union, and the steps and motives to it) most injurious to your majesty, who have been pleased often to declare from the throne, that the Union of the two kingdoms is the peculiar happiness of your reign, in making a full provision for the peace and quiet of your people, and the security of our religion, by so firm an establishment of the Protestant Succession throughout Great-Britain: it appeared to us by the confession of the said John Morphew at our bar, that he published, sold, and dispersed that libel; and, by the examination of several witnesses on oath, that the same was printed by John Barber, a Printer, who, at the time of the printing the said seditious libel, was, and yet is, entrusted with printing the Gazette; but the said John Barber, in his examination, insisting not to answer any questions, the answer to which might tend to accuse himself, or to corroborate the accusation against him, we have not as yet been able to discover the Author of the said libel, or who brought the written copy thereof to be printed. And therefore, that nothing may be wanting on our parts, towards the discovering and punishing so great a criminal, as we take the Author of the said libel to be, we do most humbly beseech your majesty, that your majesty will be graciously pleased to issue your royal proclamation, with a promise therein of such a reward as your majesty shall, in your royal wisdom, think fit, to any person who shall discover and make due proof against the Author or Authors of the said

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libel; as also your majesty's most gracious pardon to such person or persons as shall make such discovery, of all crimes and misdemeanors committed in relation to the printing, publishing, and dispersing the said libel."

The Queen's Answer.] To this Address the Queen returned this Answer:

"My Lords; I thank you for the concern you shew for suppressing all seditious Libels. And have given orders for a Proclamation according as desired."

Proclamation to discover the Author.] Accordingly, the same day, the Queen ordered a Proclamation to be published, containing the suggestions of the Lords' Address, and promising a reward of 300*l.* for discovering the Author of the Libel. Which sum the Lord Treasurer was thereby directed to pay. *

Resolutions respecting the Qualifications of Members.] March 6. The Commons in a grand committee, considered the act of the 9th of her majesty's reign, intitled, 'An Act for securing the Freedom of Parliaments, by the farther qualifying the Members to sit in the House of Commons;' and came to the following Resolutions. 1. "That notwithstanding the Oath taken by any candidate, on or after any election, his Qualification may be afterwards examined into. 2. That the person whose qualification is expressly objected to in any petition, relating to his election, shall, within fifteen days after the petition read, give to the clerk of the House of Commons, a paper signed by himself, containing a rental or particular of the lands, tenements or hereditaments, whereby he makes out his qualification: of which any person concerned may have a copy. 3. That of such lands, tenements, or hereditaments, whereof the party hath been in possession for three years before the election, he shall also insert in the same paper, from what person, and by what conveyance, or act in law, he claims and derives the same; and also the consideration, if any, paid, and the names and places of abode of the witnesses to such conveyance and payment. 4. That, if a sitting member shall think fit to question the qualification of a petitioner, he shall, within fifteen days after the petition read, leave notice thereof in writing with the clerk of the House of Commons; and the petitioner shall, in such case, within fifteen days after such notice, leave with the said clerk of the House the like account in writing of his qualification, as is required from a sitting member."

PROCEEDINGS IN THE HOUSE OF COMMONS AGAINST MR. RICHARD STEELE.

Complaint against Mr. Steele.] Notwithstanding all the care and industry used by the court managers in the late Elections, many professed enemies of the present ministers were chosen. But, of these, none were so obnoxious to the men in power as Mr. Steele, who in several public writings, had arraigned the late measures with great boldness, as one, who was encouraged, and sure to be supported, by the whole Whig party. It was therefore agreed by the ministers (how much soever they differed in other matters) to exert their endeavours to remove him from his seat in parliament. A Petition, which was lodged against his election, happening to be the 17th of that kind, and therefore not like to come on this session, it was resolved to take a shorter way, and attack him about some of his late political writings. Mr. Hungerford, a noted lawyer, who had been expelled the House of Commons for bribery in the reign of king William,* moved, on the 11th of March, to take into consideration that part of the queen's Speech, which related to the suppressing Seditious Libels; and complained, in particular, of several scandalous papers lately published under the name of Richard Steele, esq. a member of that house. He was seconded by Mr. Auditor Foley, a near relation to the Lord Treasurer, who suggested, 'That unless means were found to restrain the licentiousness of the Press, and to shelter those, who had the honour to be in the administration, from malicious and scandalous libels; they, who by their abilities are best qualified to serve their queen and country, would decline public offices and employments.'† This was supported by sir William Wyndham, who added, 'That some of Mr. Steele's writings contained insolent injurious reflections on the queen herself, and were dictated by the spirit of rebellion.' The next day, Auditor Harley (the Lord Treasurer's brother) made a formal complaint to the House against certain paragraphs of the three printed pamphlets, which had given most offence to the court; 'The Englishman, of January 19; the Crisis; and the last Englishman,' all said to be written by Richard Steele,

* Dr. Swift, in his advertisement prefixed to this pamphlet among his political tracts, says, the reason of offering so small a reward was, because "the queen and ministry had no desire to have the author taken into custody."

* See Vol. 5, p. 911.

† "Dear Prue; I send this to let you know that lord Halifax would not let me go to the House, but thought it would be better to have the first attack made in my absence. Mr. Foley was the gentleman who did me that honour; but they could not bring it to bear so far as to obtain an order for my attending in my place, or any thing else to my disadvantage, than that all pamphlets are to come on Saturday. Lord Halifax, in the House of Lords, told the ministry, that he believed, if they would recommend the Crisis to her majesty's perusal, she would think quite otherwise of the book than they do. I think they have begun very unhappily and ungracefully against me; and doubt not but God will turn their malice to the advantage of the innocent." Steele to his Wife, March 11, 1713-14. See his Epistolary Correspondence by Nichols, vol. 1. p. 318. London 1809.

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esq.; which pamphlets being brought up to the table, it was ordered, That Mr. Steele should attend in his place the next morning.

This brought a great concourse of members and spectators to the house; and, Mr. Steele attending, several paragraphs, contained in the pamphlets complained of, were read: after which, Mr. Foley, Mr. Harley, and some other members, severely animadverted upon the rancour and seditious spirit conspicuous in those writings. Mr. James Craggs, jun. standing up to speak in Mr. Steele's behalf, he was prevented by a confused noise of several voices calling to order; intimating, that, according to the order of the day, Mr. Steele was to be heard himself in his place. Upon this, Mr. Steele said, 'That, being attacked on several heads without any previous notice, he hoped the House would allow him, at least, a week's time to prepare for his Defence.' Auditor Harley having excepted against so long a delay, and moved for adjouruing this affair to the Monday following, Mr. Steele, to ridicule his two principal prosecutors, Foley and Harley, who were known to be rigid Presbyterians, though they now sided with the High Church, assumed their sanctified countenance, and owned, 'in the meekness and contrition of his heart, that he was a very great sinner; and hoped, the member, who spoke last, and who was so justly renowned for his exemplary piety and devotion, would not be accessary to the accumulating the number of his transgressions, by obliging him to break the sabbath of the Lord, by perusing such profane writings, as might serve for his justification.' This speech, spoken in a canting tone, having put the generality of the assembly in good humour, Mr. Steele carried his point; and the further consideration of the charge against him was deferred for a week, by which time it was expected, that sir Richard Onslow, Mr. Hampden, Mr. Lechmere, and some other leading members of the Whig party, who were absent, would be come to town.

Mr. Steele's Motion relative to Dunkirk rejected.] March 15. This success encouraged Mr. Steele, not only to stand upon the defensive, but even to attack his accusers. As he believed a great part of the ill-will, he had brought upon himself, was owing to what he wrote about Dunkirk, he thought it would make for his defence, to have what passed, relating to the collusive demolition, appear to the House before his day came on. He therefore moved, on the very Monday proposed by Mr. Harley for his trial, "That an Address be presented to the queen, to give directions, that the several representations of her engineers and officers, who had the care and inspection of the demolition of Dunkirk, and all orders and instructions given thereupon, be laid before the House." But the Motion was rejected by 214 voices, against 109. But the court party did not think fit to oppose another Motion, which, with the same intent, was then made by the lord Lumley, eldest son to the earl of Scarborough, who being seconded by the earl of Hertford, it was unanimously resolved, "That an Address be presented to her majesty, that she would be pleased to order an Account to be laid before the House, what steps had been made for the removing the Pretender from the dominions of the duke of Lorrain, pursuant to the Address of both Houses of the last parliament; and what answers had been given by the duke of Lorrain."

Mr. Steele's Trial in the House of Commons.] On the 18th, the day appointed for Mr. Steele's Trial, the courtiers thought fit to get the House cleared from all strangers; which done, and Mr. Steele appearing in his place, Mr. Auditor Foley moved, that before they proceeded any farther, Mr. Steele should declare, whether he acknowledged the writings that bore his name. Hereupon Mr. Steele owned, 'he wrote and published the said pamphlets, and the several paragraphs there, which had been complained of, and read to the House, with the same cheerfulness and satisfaction, with which he had abjured the Pretender.' Then a debate arising upon the method of proceeding, Mr. Auditor Foley proposed, that Mr. Steele should withdraw; but, after several Speeches, it was carried, without dividing, that he should stay, in order to make his Defence. He desired that he might be allowed to answer to what might be urged against him, paragraph by paragraph: But though he was powerfully supported by Mr. Robert Walpole, general Stanhope, the lord Finch, eldest son to the earl of Nottingham, and the lord Hinchingbroke, son to the earl of Sandwich, yet Mr. Steele's accusers insisted, and it was carried, "That he should proceed to make his Defence, generally, upon the charge given against him." Mr. Steele proceeded accordingly, to make his Defence, being assisted by Mr. Joseph Addison, who sat near him, to prompt him, upon occasion: And, for near three hours, spake to several heads, extracted out of the three pamphlets abovementioned, (which had been given in print to all the members) with such a temper, modesty, unconcern, easy and manly eloquence, as gave entire satisfaction to all, who were not inveterately prepossessed against him *.

Mr. Robert Walpole's memorable Speech in Defence of Mr. Steele.] Mr. Steele being withdrawn, most members expected, that Mr. Auditor Foley would have summed up, and answered his Defence, paragraph by paragraph; but he contented himself with saying, in general, "That, without amusing the House with long speeches, it was plain, that the Writings that had been complained of, were seditious and scandalous, injurious to her majesty's government, the church, and the universities, and moved that the question should be put thereupon."

This occasioned a very warm debate, that lasted till 11 o'clock at night.

* See his APOLOGY at p. 1275.

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Mr. *Robert Walpole* *, who spoke first in favour of Mr. Steele, made a very long, and most eloquent Speech, wherein he went to the bottom of the affair; shewed that this extraordinary and violent prosecution, struck at the liberties of the subject in general, and of the members of that House in particular; justified Mr. Steele on all the heads of the accusation raised against him; and said, he hoped the House would not sacrifice one of their members, to the resentment and rage of the ministry, for no other crime, than his exposing their notorious mismanagements; and, like a good patriot, warning his countrymen against the imminent dangers, with which the nation in general, and, in particular, her majesty's sacred person were threatened, by the visible encouragement that was given to the Pretender's friends. If a Papist, said Mr. Walpole, to that purpose, nay, an Irish Papist, who, for many years, has been a servant to the late king James, and the Pretender, (meaning sir Patrick Lawless,) one who has borne arms against her majesty in France and Spain; one who is strongly suspected, of having embrued his hands in the blood of the late duke of Medina-Celi, and marquis of Leganez: If, said he, such a man be not only permitted to come into England, but to appear at court, in the presence chamber: If he be caressed by the ministers: nay, I speak it with horror, if such a man be admitted to her majesty's private audience in her closet, will not every good subject think her majesty's person in danger? And is it then a crime in Mr. Steele, to shew his just concern, for so precious a life?—As to that passage in Mr. Steele's Crisis, wherein he says, 'That a late Treason-'able Book, on the Succession of Hereditary

* Mr. Coxe's account of Walpole's conduct upon this occasion is as follows:

"Walpole was particularly active in defence of Steele. The rage of party was so violent on this occasion, that an attempt was made to compel Steele to withdraw, without entering into his own Defence, but this unjust proposition was over-ruled without a division. He then entered on his Defence, with a temper, modesty and eloquence quite unusual to him, and continued speaking three hours. After he had withdrawn, no member on the side of the ministry attempted to answer him; and auditor Foley only observed, that without amusing the House with long speeches, it was plain to every body, that the Writings complained of, were seditious and scandalous, and moved the question. This motion occasioned a warm debate, in which Walpole bore the most active and principal share. In this Defence, Walpole asked the House, "Why the author was answerable in parliament for the things which he wrote in his private capacity? And if he is punishable by law, why is he not left to the law? By this mode of proceeding, parliament, which used to be the scourge only of evil ministers, is made by ministers the scourge of the subject. The ministers, he added, are sufficiently armed with authority; they possess the great sanction of rewards and punishments, the disposal of the privy purse, the grace of pardoning, and the power of condemning to the pillory for seditious writings; powers consistent with, and naturally arising from their exalted situation, and which they cannot too jealously guard from being perverted to answer indirect or criminal purposes. In former reigns, the audacity of corruption extended itself only to judges and juries; the attempt so to degrade parliament was, till the present period, unheard of. The Liberty of the Press is unrestrained; how then shall a part of the legislature dare to punish that as a crime which is not declared to be so by any law, framed by the whole? And why should that House be made the instrument of such a detestable purpose; that House, which had to boast the honourable distinction of being applied to, as the source of redress, in all cases of oppression? Steele, he observed, has advanced nothing which bears a direct criminal construction; nothing which can be construed into guilt without the assistance of forced inuendoes; and shall parliament assume the ungracious part of thus inferring guilt from mere arbitrary construction? If they do, what advantage to government or the community can be expected to result from such a measure? Are doctrines refuted, and truths suppressed, by being censured or stigmatized?—In the reign of James, it was criminal to say, that the king was a Papist; but the severity of the law, or the cruelty of its ministers, could not eradicate from the mind of a single individual, the confirmed belief of the fact. Steele is only attacked, because he is the advocate for the Protestant Succession; the cause which he so ably defends, gives the offence; through his sides the Succession is to be wounded; his punishment will be a symptom, that the Succession is in danger; and the ministry are now feeling the pulse of parliament, to see how far they may be able to proceed. Does Mr. Steele, he inquired, incur any blame for writing against Popery? In the reign of James, indeed, preaching against Popery was considered as casting a reflection on the ministry. But it was not so in the reign of king William. From what fatality does it arise, that what is written in favour of the Protestant Succession, and was countenanced by the late ministry, is deemed a libel on the present administration? General invectives in the pulpit against drinking, fornication, or any particular vice, have never been esteemed a reflection on particular persons, unless these persons are guilty of the darling sin against which the preacher inveighs. It becomes, then, a fair inference, from their irritability and resentment against its defender, that the darling sin of the present administration is to obstruct the Protestant Succession." Coxe's Walpole, vol. i. p. 72. The part of the Speech here quoted was collected by Mr. Coxe from memorandums in the hand-writing of sir Robert Walpole.

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'Right, has published the Will of king Henry 8, 'which seems to be intended as a pattern for 'the like occasion.' And a little lower, 'Let 'those who act under the present settlement, 'and yet pretend to dispute for an absolute 'Hereditary Right, quiet themselves with the 'arguments they have borrowed from Popery:' Mr. Walpole said, it could not be denied, "That the Lord Treasurer was the patron of learned men, for whose use and improvement, he had set up a fine library; and that it appeared by the book called, 'The Hereditary Right of the Crown of England asserted,' &c. that the author had free access to that library, and had drawn very material passages out of some manuscripts in it. But that the Lord Treasurer's care, to supply him with materials towards that work, went yet further, since his lordship had employed a man to look among old musty papers, the Will and Testament of king Henry 8, which the said author had inserted at length in the Appendix to his book. That he appealed to Mr. Lowndes, a member of the House, and Secretary to the Treasury, whether he had not paid, by the Lord Treasurer's order, twelve or fourteen pounds, to the person that had made that great discovery; but that in case he should deny it, he, Mr. Walpole, had evidence to prove it." Mr. Lowndes seemed not to deny the fact. He only said, that Will was not so rare a piece, since it was to be seen in a place he named, in Westminster Abbey.—On this occasion, Mr. Walpole mentioned three points, in which he endeavoured to prove that the Peace had already been broke: "The first, he said, was the Demolition of Dunkirk; which ought to have been finished five months after the signing of the Treaty: But that instead of that, the French had, yet, only pulled down part of the outward fortifications, without touching the foundations; which, on the one hand, rendered the English garrison useless, and exposed to any insults; and, on the other hand, would afterwards make it easy for the French to restore and rebuild those fortifications; which was the more probable to be in their thoughts, since, instead of ruining the harbour, they were actually repairing the sluices, and working on a new canal. That the second point, was the Renunciations of the princes of the house of Bourbon, which were laid down as the foundation and basis of the Peace, and as a pretence, that thereby the crowns of France and Spain, would be more divided than ever: But that supposing, (what he could not by any means grant) that those Renunciations were to be depended upon, they were yet conditional, and supposed the emperor's Renunciation to the crown of Spain: And therefore, as no care had been taken to engage his imperial majesty to agree to that necessary condition, so the Renunciations of the princes of the House of Bourbon, became thereby not binding and void." The third instance which Mr. Walpole gave, of the violation of the Peace, was the French king's Ordinance, dated September 18, N. S. 1713, 'forbidding the children of French 'refugees, though born out of his dominions, to 'come into them, without his permission, upon 'pain of being sent to the gallies.' To which purpose, Mr. Walpole represented, "that the said Ordinance was against natural right, and the law of nations, and, in particular, derogatory to the rights and liberties of the British nation, which the children of the refugees, born in England, were entitled to enjoy, as well as the other natives. That he would adventure to say, in their behalf, that it were to be wished, that all who have the happiness to be born in England, were as good Englishmen as the sons of the refugees, and that the British nation was the more concerned, in having that Ordinance repealed, in that the refugees, and their children, were the fittest to carry on a trade with France."

Mr. *Horatio Walpole* backed what his brother Robert said in favour of the French refugees; and "Deplored the lamentable condition of their ministers and the poor amongst them, to whom the Lord Treasurer, had not paid one penny of the 15,000*l.* per ann. voted by parliament, and allowed in the Civil List, toward their assistance and relief, since he came into his office." To that purpose, he added "That some amongst the refugees suffered now more in England than they did during the persecution in France; since there were always some charitable people who relieved them while they were in prisons and dungeons, whereas here they were let starve."

The Lord *Finch**, backed also Mr. Robert

* "Daniel Finch, eldest son to Daniel earl of Nottingham, was elected one of the knights of the shire for Rutland in 1711, and served for the same county in all parliaments whilst he continued a commoner. In "the Monitor," No. 2, April 24, 1714, he is thus characterised: "Young Dismal is a modern of native eloquence, and of hereditary gravity, known in the country where he dwells, for a genius particularly inclined to speech-making; and by a family propensity, more especially, addicted to it at those times when most may be said with the least signification." This ill-tempered introduction to a severe remark is introduced for the purpose of contrasting with it the following more pleasing anecdote.

"In a paper of his in the Guardian, Steele published a spirited defence of Lady Charlotte Finch, daughter of the earl of Nottingham, and afterwards duchess of Somerset, who had been treated with rudeness and ill-manners by an anonymous writer in the Examiner, for alledged misbehaviour in church; and won by this the heart of her brother, probably pre-disposed in favour of an amiable man, and, it may be, attached to him by an antecedent friendship. Be this as it may, when the question about Steele's expulsion was agitated in the House of Commons, lord Finch stepped forward, and made attempts to speak in Steele's behalf; but, being embarrassed by an ingenuous modesty,

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Walpole, and gave early, pregnant proofs, of the eloquence hereditary in his noble family. His lordship among other things, endeavoured to justify Mr. Steele, with relation to the nicest and tenderest part of the charge against him,

and over-deference to an assembly in which he had not yet been accustomed to speak, he sat down in visible confusion, saying, so as to be over-heard, "It is strange I can't speak for this man, though I could readily fight for him." His words being whispered from one to another, operated in an instant like electrical fire; and a sudden burst, from all parts of the House, of "hear him! hear him!" with ineffable marks of encouragement, brought lord Finch again on his legs, who with astonishing recollection, and the utmost propriety, spoke a speech on the occasion, in which, as it was related to this writer, in the language of the theatre, "there was not a word which did not tell.—The eyes of the whole company were upon him; and though he appeared to have utterly forgot what he rose up to speak, yet the generous motive, which the whole company knew he acted upon, procured him such an acclamation of voices to hear him, that he expressed himself with a magnanimity and clearness, proceeding from the integrity of his heart, that made his very adversaries receive him as a man they wished their friend—Such was the noble motive which first produced this nobleman's natural eloquence; the force of which was charming, and irresistible, when exerted in the protection of the oppressed.

"On the accession of king George 1, lord Finch was appointed one of the gentlemen of the bed-chamber to the prince of Wales, when his father was declared Lord President of the Council: October 10, 1715, he was constituted one of the Lords Commissioners of the Treasury; and resigned all his employments Feb. 21, 1715-16. He was made Comptroller of his majesty's household, May 25, 1725; which office he voluntarily resigned, after he succeeded his father as earl of Winchelsea and Nottingham (Jan. 1, 1729-30.) On June 1, 1725, he was sworn of the Privy-council. On March 16, 1741, was constituted First Lord Commissioner of the Admiralty; and April 15, 1743, was appointed one of the Lords Justices on his majesty's absence in his German dominions. He was one of the assistants to the duke of Somerset, chief mourner at the funeral of Frederick, prince of Wales, April 13, 1751. March 13, 1752, he was elected a knight of the garter, and installed June 4. April 6, 1757, he was a second time appointed first Lord of the Admiralty; but resigned in June following. At the accession of the present king he was continued of the Privy Council, and constituted President, July 12, 1765, which office he resigned July 30, 1766. He was also one of the elder brethren of the Trinity-house; and died Aug. 2, 1769, in his 81st year." See Nichol's Epistolary Correspondence of Steele, p. 328, 332, London 1809.

viz. his third wish, in the close of his last Englishman, That his electoral highness of Hanover, would be so grateful as to signify to all the world; the perfect good understanding he has with the court of England, in as plain terms, as her majesty was pleased to declare she had with that House, on her part. He said thereupon, "That supposing there were in this wish, some injurious insinuation, yet the same, could not, without injustice, be applied to the queen, but only to her ministers: That nobody doubted the good understanding between her majesty and the house of Hanover; but that it was notorious, that the ministers shewed no great regard to that illustrious House, witness, (to pass over other instances) the slight they put upon the baron Bothmar's memorial; which the queen had perhaps never seen, had not the duchess of Somerset shewed it her majesty in print in the Daily Courant." My lord Finch likewise justified Mr. Steele, in relation to his reflections on the Peace: We may, said his lordship, give it all the fine epithets we please; but epithets do not change the nature of things. We may, if we please, call it here honourable; but I am sure it is accounted scandalous in Holland, Germany, Portugal, and over all Europe except France and Spain. We may call it advantageous, but all the trading part of the nation find it to be otherwise: And if it be really advantageous, it must be so to the ministry that made it.

Sir *William Wyndham* saying thereupon, "That the ministry would not say that the Peace was advantageous to them:"

The Lord *Finch* very smartly replied, Then it was plain it was advantageous to nobody, but our late enemies.

Mr. Steele expelled the House.] Lord Lumley, son to the earl of Scarborough, lord Hinchinbroke, and some other members, spoke with a great deal of vivacity in favour of Mr. Steele, and against the conduct of ministry: But Mr. Auditor Foley, sir William Wyndham, the Attorney-General, and some other courtiers, being supported by a great majority, still insisted on the question, so that at last, it was carried by 245 voices, against 152, First, "That a printed pamphlet intituled, The Englishman, being the close of the paper so called, and one other pamphlet, intituled, The Crisis, written by Richard Steele, esq. a member of this House; are scandalous and seditious Libels, containing many expressions highly reflecting upon her majesty, and upon the nobility, clergy, gentry and universities of this kingdom, maliciously insinuating, that the Protestant Succession in the house of Hanover is in danger under her majesty's administration, and tending to alienate the affections of her majesty's good subjects, and to create jealousies and divisions among them. Secondly, That Richard Steele, esq. for his offence in writing, and publishing the said scandalous and seditious libels, be expelled this House."

It is observable that two Scots members only spoke in this long debate, to wit, Mr.

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Bailie, and sir James Steuart, judge advocate in North-Britain. The first said, "He was little acquainted with the affairs of England, but had made it his business, to know those of his own country; and that, by all the observations he could make for some years past, they who appeared the most zealous for the Pretender's interest, were most favoured and countenanced, by those in power." This was confirmed by sir James Steuart, who added, "That to his certain knowledge 3 or 4,000*l.* had been yearly remitted to the highland clans, whose chiefs, and the men under their command, were known to be entirely devoted to the Chevalier *."

MR. STEELE'S APOLOGY.

Shortly after his expulsion, Mr. Steele published a Defence of his Conduct. It was entitled 'Mr. Steele's Apology, for Himself and 'his Writings, occasioned by his Expulsion from 'the House of Commons.' Besides the masterly able Speech which he made in the House, it contains several particulars not mentioned in the foregoing Proceedings. We therefore give it entire:

MR. STEELE'S APOLOGY

FOR HIMSELF AND HIS WRITINGS, OCCASIONED BY HIS EXPULSION FROM THE HOUSE OF COMMONS.

"Fabula Quanta Fui!" Hor.

"To MR. WALPOLE.†

SIR; Whoever reads the following Apology will easily allow me, that I am much less concerned for the fame of a writer than that of an honest man. I have declared the assistances I had in composing the Writings which are here defended; for the upright purpose, the innocent intention of them, is all which I am anxious to assert. In defence of truth I incurred popular hatred and contempt, with the prospect of suffering the want even of the ordinary conveniences of life. The probability of being undone I could not but form to myself when I took upon me what I did; but a weight heavier than all this fell upon me, to wit, a Resolution of the Representatives of my country to my dishonour. This indeed was a blow unexpected; nor could it enter into my imagination, that the insolence of any minister could run so high, as to demand of the House of Commons to punish one of its members for being unacceptable to him. The perusal of this Pamphlet will convince the reader, there was not so much as the appearance of any other motive for my Expulsion. The day of debate was indeed a very memorable one, and the persons concerned in it hugely worth suspending the councils of a nation. It was remarkable however, that such was the force of truth, that the member accused had not an harsh personal expression used against him; and the minister, in the midst of all his power, who brought on the accusation, was treated in the manner which all mankind knows he deserves. As for my part, I ever thought meanly of the capacity, though not, till lately, of the good-nature of that demagogue, and saw very well his audaciousness would one day suffer by his ignorance. It was visible, whatever became of his country, which I believe had little share in his Lordship's cares, he would, with the wand in his hand, raise powers which he would want skill to command, and which consequently would tear himself in pieces.

But without dwelling upon the contemplation of mischiefs wrought by a cunning wicked creature, placed in a station proper only for a wise and virtuous man, I am now to give you my thanks for your generous defence of me in this great adversity. Your behaviour was indeed equally noble during the whole French administration, and your eloquence was of public service to your country, when the prerogative was strained to the utmost, not to exalt our own sovereign, but to compliment France with

* "By this it appears, that this affair gave the enemies of the present ministry, a handle to rip up several things, which, had it not been for this prosecution, had, perhaps, never been mentioned in the House of Commons: And which, being spoken in the hearing of several Lords, occasioned the like reflections, and stricter inquiries, in the House of Peers. A few days after, sir James Steuart was removed from his place, for telling tales." Boyer.

† "The speech of Walpole on this occasion procured him great applause; but the public did not know, that the Defence made by Steele himself, was in a great degree the offspring of his eloquence; a fact related by bishop Newton, on the authority of Pulteney: 'When 'Steele was to be expelled, the House of Com-'mons, Mr. Walpole and Mr. Pultney, and 'Mr. Addison were commissioned to go to him 'by the noblemen and members of the Kit Kat 'Club, with their positive order and determi-'nation, that Steele should not make his own 'speech, but Addison should make it for him, 'and he should recite it from the other's 'Writing, without any insertion or addition of 'his own. Addison thought this an hard in-'junction, and said, that he must be like a 'school-boy, and desired the gentlemen to give 'him a little sense. Walpole said, that it was 'impossible to speak a speech in cold blood; 'but being pressed, he said he would try, and 'immediately spoke a very good speech of what 'he thought proper for Steele to say on the 'occasion; and the next day in the house 'made another speech as good, or better, on 'the same subject; but so totally different 'from the former, that there was scarce a 'single argument or thought the same; which 'particulars are mentioned as illustrious proofs 'of his uncommon eloquence.' (Life of bishop Newton, by himself)—Steele afterwards published an 'Apology,' which, with becoming gratitude, he dedicated to Walpole." Coxe's Walpole.

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the greatness and interest of her and her people. The intervention of providence has given us a stand against the immediate destruction which such iniquity and folly had placed before our eyes, and men in great employments can now be safe without depending upon France.

I have mentioned Dunkirk till I am sick, and there are not words to represent the infamous behaviour in a ministry, to cover so great and pernicious an imposture upon their country, as the improvement of that port under the pretence of the demolition of it.

You have the honour and happiness to have eminently opposed all the incursions which these guilty men made upon the greatness of the crown and the welfare of the subject, by prostituting them both to their own selfish designs, and destroying, as far as in them lay, the good name of all men of virtue and service.

They have indeed reaped this good, that here can be nothing said of themselves, the worst servants that ever sovereign employed, but what they had caused to be laid to the charge of those who were their predecessors; persons whose abilities had raised their country to such a grandeur, that nothing but the unnatural industry of her own ministers could lower to the helpless condition to which they had reduced it.

These evils could not have been supported, had not the demagogues, by the abuse of power, deafened many in the legislature against attention to the true interest of themselves and their country; while an inconsiderable creature, who had the good-will of no man, could manage aversions skilfully enough to be suffered to destroy all, for fear of an alteration of affairs that might be grateful to an opposite party.

Were the following instance of the harsh and odious disposition in gentlemen to sit determined before hearing, the concern only of me and mine, it would not be worth troubling the world with so many words on the occasion; but neither what I now write, or what you much better spoke, is a case of so little consequence; and when you undertook it, you knew you were pleading for the rights and liberties of the Commons of England; and I will take upon me to say, that there never was a greater insult on the constitution than this, except one practised by the same person without the least deference to the order of things, the common sense of mankind, the honour of the crown, or the property of the subject.

It needs not be said what this greater impudence was, nor who had so little grace as to be guilty of it: It was he who was born in our days for the chastisement and dishonour of them, a tool whose insignificancy makes sorrow, occasioned by him, the subject of laughter, takes all dignity from distress, and renders calamity ridiculous.

As to my own part, under the fantastical tyranny of the Demagogue's administration, should what you said in the House be communicated to the public, I should have no need of this defence; but since I have not here the assistance of your eloquence, I beg the advantage of your name and character: For I know it will be an argument with every honest man that my cause was good, that you so zealously espoused it; for that admirable talent of speaking of which you are master, has never been prostituted to serve dishonest purposes; and you have too candid a spirit not to esteem it a praise, rather than disparagement of your eloquence, that the cause for which you have at any time pleaded needed no art but from the iniquity of its opposers.

The happy ability of explaining the most difficult parts of business to men wholly unacquainted with negociation, has been as useful to the public as honourable to yourself. As you have detected the artful, so you have helped the ignorant of your very adversaries, according to their intention to abuse or serve their country.

It has been said, That the greatest art is to hide art; but you have a much better instrument towards persuasion, the having nothing to conceal; for truth is as certainly the greatest eloquence, as honesty is the best policy. Let those who speak or act against their conscience, obtain their little purposes and applauses; be it ever your commendation to despise artifice and practise uprightness. A long course of suffering for your zeal in an honest cause, has gained you the character of an open honest English gentleman, with a capacity which takes off the imputation of weakness from simplicity of manners, and adds the dignity of knowledge to the beauty of innocence.

As I never entered into political debates with ambitious views, but have brought my desires within the necessaries and decent conveniencies of life, I am the more jealously tenacious of the little I expect of the world, which is only to accept of my service to the best of my ability, without loading me with unjust reproach. In this reasonable expectation Mr. Walpole generously lent me his protection; and though he could not persuade my judges to do me justice, he convinced them I deserved a different sentence from what they pronounced. But, alas, they had learned, by long practice, to do shameful things, without being ashamed; and though your arguments could command their assent, it could not make them utter it in my favour. You sent them away, I thank you, with the same thoughts of themselves, which you had of them; and whatever force and oppression determined, in the eye of reason and conscience the judges were convict, and the accused man found innocent.

I humbly thank you for your eminent part in this affair, and congratulate you on receiving the favour of your prince for your service to your country. As doing good to the public is the motive of conferring favours, it is, with such as you, the rule in enjoying them. I

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wish you the possession of all your frank heart desires; and am, with great respect, Sir, &c.

RICHARD STEELE.

THE PREFACE.

This Defence was printed before the death of her late majesty; but upon that accident the publication was deferred, lest some handle might be taken to interrupt the business of the nation by an offence given to persons who were principally guilty of the oppression here represented. They might possibly have attempted to borrow another cast of conscience in their favour; and it was to be feared, that the same tyranny, which punished a man for a thing in which he ought to have been encouraged and supported, would have gone on to condemn the least murmur against its determination; I have said tyranny, because to resolve or act against justice, truth, or common sense, is as much tyranny in an assembly as a single person. But I must do the majority of the House which expelled me the justice to own, that they carried themselves as men conscious they were doing wrong, and no one appeared active in it but professed slaves and hirelings, that is to say, such as I have called in the following Narrative the Messengers of the Treasury: Members of the House who were immediately dependant upon or related to a noble lord whom I need not name, that sent orders by his kinsman to turn a commoner of England out of parliament, because it was not his lordship's good pleasure he should sit there any longer. When a man is out of power, it is usual to detract from the fame of his high talents and qualifications: But I cannot be guilty of such injustice to this great man; for never was minister since the creation more thoroughly master of that great necessary in him, who meditates vast designs, the choice of instruments. Machiavel, in some part of his precious writings, advises against the choice of raw murderers, for such are apt to utter some soft word flowing from compassion, or other weakness, for want of the habit of bloodshed, which might spoil the whole design. Our Hero cannot be accused of being injudicious this way, and I have a thousand times sat in deep admiration of his choice of Agents, who if they had been the least grain more rich, more poor, more foolish, more wise, more tall, more short, more knaves, or more fools, had been unfit for the work in hand. Had any man against his measures in either of the assemblies more eloquence, more penetration, or more credit than comes to a single member's share, let such a one open his mouth, he should be attacked with one who had as much right to speak as himself, with so firm absurdity, and then seconded by one just one degree worse than him, and a third half-fool pin up the matter with an assertion still wilder, to the utter confusion of the man in his senses, whose noble faculty of adorning the cause of truth should be immediately reduced to an interjection of sorrow, and down he must sit. Such was our Hero's manner of demolishing and frustrating all persons against him. The same genius in disappointing the force of superior talents, ran through all parts of business.

The writings hereafter spoken of were an apparent vindication of the king's title to the crown, and an honest representation of the dangerous state of the nation. Now would any man living believe, that it was in nature this could be made an accusation before an House of Commons? But so it was; and there appeared in it fellows born and contrived by nature for such a work; Creatures that could vex, but not make you angry, such mean instruments of iniquity, that the wickedness was disparaged by their managing it, and the flagrancy and dangerous consequence of what was doing, was hidden by the inconsiderableness of the agents. A persecution from them was like being troubled with vermin. Though I had too much at stake to be in humour enough to enjoy the scene, there was, with all the cruelty of it, something particularly comic in the affair. All the men of sense in the majority of the House, though they did not design to deny a friend a vote, stood off, and left the whole management to the family and the office.

The onset was made in the poorest manner, and the Accusation laid with an insipid action and cold expression. The Accuser arraigned a man for sedition, with the same indolence and indifference as another man pares his nails: What was spoken appeared only a rheum from the mouth, and Mr. Foley, as well as do what he did, might have blown his nose and put the question. But though the choler of my accusers was corrected by their phlegm, insomuch that they were harmless with ill-will; yet had they perseverance to go on, insensible of the raillery of the contrary party, and the contempt of their own. The most lamentable thing of all to consider was, that though there was not one man of honour, who spoke on the side of the ministry, but did it upon general terms, wherein he apparently discovered his disapprobation of the work he was about, so many honest gentlemen should join in a Vote of Expulsion?

It is possible some gentlemen might think in their consciences, it is an immoral action for any private man to animadvert upon the administration of the public. God forbid I should say they were not some worthy men who were thus persuaded in this case; but if they were so, I know not why they should, as members of the House of Commons, punish a man for what he did before he came into the House, especially since that thing would have been laudable in him to have done, if he had been in the House.

All I shall preface further is, that I thought the circumstances of Great Britain and Europe were such as made it an honest and necessary action to interrupt and oppose the measures of the ministry. When I thought it my duty, I thank God, I had no further consideration for myself than to do it in a lawful and proper way, so as to give no disparagement to a glorious cause from my indiscretion or want of judg-

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ment. A work against them I was the rather inclined to undertake, because the exceptions which were made against the conduct of the ministry seemed wild and calumnious, when written by nameless authors; but when any man with his name asserted things were amiss, it would behove the persons concerned to prove it calumny, or suffer under it: And I was willing to ripen the question of the Succession upon my own head. It soon appeared that there was so much ground for what I said in the Papers I then printed, that it was thought much more proper to weaken the validity of what I said, by invectives against me, which came out stitched, bound, and in loose papers for some months every week, than gainsay what I asserted. In the midst of this treatment the conversation happened which gave occasion to *The Crisis*. The gentleman mentioned in the following Defence, as giving the first hint to the design, I need no longer conceal; it was Mr. Moor of the Inner-Temple, a man perfectly skilled in the history, the laws, the constitution of this kingdom, and, in my poor opinion, as capable of doing eminent service, where those qualities are requisite, as any man in England not already employed. All I have to say further concerning him is, that I hope the mention of this his great merit may prove to his advantage; and it is not to be imputed to me if he feels no effect of public favour, for starting so useful a design as appeared in the Crisis.

When the Crisis was written hand in hand with this gentleman, I, who was to answer for it with my all, would not venture upon our single judgment, therefore I caused it to be printed, and left one copy with Mr. Addison, another with Mr. Lechmere, another with Mr. Minshull, and another with Mr. Hoadly. I don't name Mr. Hoadly last because I honour or depended upon him least: for he has every good quality, talent, and grace, that can adorn a Christian, a gentleman, and a divine; and whatever prejudice may suggest, I think it a great defence that the work passed his hand. From these corrected copies (no one of these gentlemen knowing till this day that the other had seen it) the Crisis became the piece it is.

When I was now fully convinced that what I said was justifiable in the sight of God and man, I thought I had an opportunity of giving an alarm to all honest men, and disconcerting the counsels of men I thought ready to attempt any thing they could act with impunity, and who cared not, so they carried on their own game, though they did it by bringing on their native country the imputation of falshood and treachery, accompanied with slavery, poverty, and dishonour.

All this was plainly intimated in the Crisis, but expressed in such a manner as to be within the law, against those who had the administration of the laws, and seemed to me to be undermining the constitution. It was therefore reasonable to act within the law as far as a man could against those who made no use of it, but to cover themselves in making encroachments upon it, and transgressions against it.

Besides the care of rescuing my own name from a seeming disgrace of a Vote of the Commons, I thought this Apology necessary to shew the arbitrary use of numbers in the most odious colours, that gentlemen may have a just detestation of practising a thing in itself unwarrantable, from the support only of the insolent and unmanly sanction of a Majority.

A LIST of the Gentlemen who voted against the Expulsion of MR. STEELE.

John Harvey,	Wm. Coatesworth,
John Cater,	John Morgan,
Sir Thomas Lee, bt.	Sir Ch. Turner, kt.
Sir J. Wittewrong, bt.	Robert Walpole,
Sir Roger Hill, kt.	The hon. W. Feilding,
James Stanhope,	Horatio Walpole,
John Bromley,	Hon. J. Fitzwilliams,
Samuel Shepperd,	George Mountague,
Peter Shakerly,	Hon. Wm. Egerton,
John Trelawny,	Paul Methuen,
Sir Ch. Wager, kt.	Hon. Tho. Wentworth,
Hugh Boscawen,	Earl of Hertford,
James Craggs,	Sir John Jermayn, bt.
John Hopkins,	Oley Douglass,
Edward Elliot,	Richard Hambden,
John Knight,	Lord Sherrard,
Humphry Morrice,	Lord Newport,
James Lowther,	Wm. Whitmore,
Gilfrid Lawson,	John Weaver,
Thomas Stanwix,	James Medlicot,
Sir John Rogers, bt.	Norton Pawlet,
Sir George Byng, kt.	Tho. Broderick,
Richard Edgecomb,	Lord William Pawlet,
George Treby,	Walter Chetwynd,
Sir John Cope, kt.	Wm. Thompson,
Roger Tuckfeild,	Sir Harvey Elways, bt.
George Trenchard,	Tho. Maynard,
John Burridge,	Edward Hopkins,
Daniel Harvey,	The hon. C. Harvey,
John Baker,	Aubrey Porter,
James Littleton,	Sir Rich. Onslow, bt.
Wm. Betts,	George Evelyn,
Wm. Coventry,	Tho. Onslow,
Thomas Erle,	James Cocks,
George Pit,	Paul Dominique,
John Hedwith,	The hon. J. Brudenell,
Sir Tho. Webster, bt.	Tho. Pelham,
Sir Isaac Rebow, kt.	John Morley Trevor,
Thomas Stevens,	Nathaniel Gould,
Wm. Dowdeswell,	Francis Chamberlayn,
Benjamin Bathurst,	The hon. S. Compton,
Wm. Grimston,	Lord Thomond,
Wm. Hale,	Lord Lumley,
Sir Matthew Dudley,	Daniel Willson,
Robert Piggot,	Sir Rich. Sandford, bt.
Lord Hinchinbrook,	John London,
The hon. S. Wortley,	Tho. Pit, jun.
Sir Rob. Masham, bt.	John Eyres,
Sir Samuel Ongley, kt.	Reynolds Calthrop,
Robert Heysham,	Edward Ash,
Sir Tho. Johnson, kt.	Price Acourt,
Lord Willoughby,	John Eyles,
Sir John Brownloe, bt.	Sir John Rushout, bt.
Sir John Thorold, bt.	Joseph Addison,

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Sir Tho. Read, bt.	Robert Bristow,
Tho. Pit, sen.	George Nayler,
Tho. Wylde,	Thomas Jones,
John Rudge,	John Montgomery,
Sir W. Robinson, bt.	Sir J. Campbell, bt.
Sir W. St. Quintin, bt.	George Baylie,
Sir Charles Hotham,	Col. John Campbell,
Tho. Yorke,	Charles Oliphant,
Wm. Pulteney,	Sir W. Johnstowne, bt.
Hugh Cholmley,	Sir James Stewart, bt.
Edmund Dunch,	Alexander Grant,
Wm. Strickland,	Wm. Steward,
Tho. Frankland,	Sir J. Anstruther, bt.
Ralph Bell,	Henry Cunningham,
Henry Prater,	John Middleton,
Leonard Smelt,	John Cockburne,
Arch. Hutchinson,	Sir D. Dalrymple, bt.
Philip Papillon,	John Steward,
The hon. Ed. Watson,	Sir J. Carmichael, bt.
Sir Rob. Furnace, bt.	Tho. Smith,
Sir John Norris, kt.	Sir Gilbert Elliot, bt.
Philip Gibbon,	Robert Monro.
George Doddington,	

Lord Finch was unfortunately shut out at the division; but the noble part he acted in the debate will ever be remembered to his honour.

MR. STEELE'S APOLOGY, &c.

I have waited with much patience during the session of parliament, without offering at any thing in my justification against the Sentence which passed upon me on the 18th of March last past; which Sentence, and the motives to it, are expressed in the two following Resolutions:

'Resolved,

'That a printed Pamphlet, intitled, 'The 'Englishman,' being the close of the paper so 'called; and one other Pamphlet, entitled, '"The Crisis," written by Richard Steele, esq. 'a member of this House; are scandalous and 'seditious Libels, containing many expressions 'highly reflecting upon her majesty, and upon 'the nobility, gentry, clergy, and universities 'of this kingdom, maliciously insinuating, that 'the Protestant Succession in the House of 'Hanover is in danger under her majesty's ad-'ministration, and tending to alienate the af-'fections of her majesty's good subjects, and to 'create jealousies and divisions among them.'

'Resolved,

'That Richard Steele, esq. for his Offence 'in writing and publishing the said scandalous 'and seditious Libels, be expelled this House.'

I hoped every day, during the session, to have heard other writers called to an account for their errors as well as myself, especially those who had provoked me to say what gave so much offence. In that case I might perhaps have heard something alledged, that would have made it appear necessary in the representative of the people, to censure as well those who are imprudently zealous for them, as those who are against them. But since they have punished only me, who, if I am guilty at all, am guilty only of too forward zeal in a good cause; I say, since the Commons, to shew their impartiality, have thought fit to distinguish only the crimes of one of their own members, by taking from him both his good name and seat in parliament, while all other writers pass unmentioned; that member thinks himself at liberty to do what he can to weaken the force of that censure, by a Narrative of all that passed in their House relating to himself, as well as he can recollect it.

If the reader will allow me the liberty of speaking of myself sometimes as a third person, to avoid the word I, (which often repeated, even in a justification, has an offence in it) I will tell the story very honestly.

It may, perhaps, appear undutiful to argue against what was acted by the representative of one's country: but in order to keep us within such bounds, it is expedient, on their side, to have a due regard to the lives and honour of those whom they call before them, and not to expect that, when they have laid the heaviest weight which they are able upon an offender, he will be intimidated from disputing the justice of their sentence by the terrors of their future displeasure, which can have in store nothing so terrible as what is already inflicted. The Resolution against Mr. Steele carries in it all the infamy that can be joined to the name of a gentleman, and they have certainly made him desperate and regardless of what further they can determine to his disadvantage.—In inflicting punishments, especially where the penalty is not prescribed, there should be always a regard had to the person who is to suffer; and whatever sense any body of men may have of good and evil, they should still suppose there are some men who prefer their integrity to all other considerations, not excepting those of riches and power.—Honour is the true essence of a man, and consists in the consciousness of innocence and honesty. This, indeed, cannot be taken from him by the outrage of multitudes, or the abuse of power. But though such a sense of reproach is to be the private rule of a man's conduct, and will certainly prove the best support under all disappointments and adversities, it is too abstracted a notion to carry him through the business of the world, without having a due regard to reputation and fame. A man's reputation is the dress of his honour, and though tearing a man's clothes cannot hurt his life or his limbs, yet if he will allow them to be rent into tatters, or patiently let passengers throw dirt upon them, he will be unfit to be received by the decent part of mankind in that condition, from the prejudice they cannot but have to his habit and outward appearance, and consequently he will be unable to perform the offices of life with respect to others as well as himself.

To convince the world that Mr. Steele did not deserve the Sentence before recited, I hope to shew that his whole conduct as a writer, in which character only he has been charged in the House, has been full of instances of a quite contrary tenour to that of which they accuse him; as well as that the Passages themselves

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which were brought against him will not support their accusation.—Anger, which is never wise, made a man inconsiderable in himself, of so much consequence, that while he was in the House, people condescended (as if to lessen him was carrying a great point) to brow-beat and disparage him. I know not how better to represent his condition during that time, than by saying he was the quite contrary to that sort of creature among them whom they call 'a favourite of the House.' A favourite of the House, is one who says and does what he pleases, and is always acceptable, whatever he advances, because he is ridiculous. Mr. Steele, with a quite opposite fate, was to do nothing but what should be disliked, because he was odious. This disposition against him appeared the very first day of the session; what happened to him at that time was the entertainment every where for a whole week, therefore I shall very circumstantially relate it.

After two or three gentlemen had proposed sir Thomas Hanmer for Speaker of the House of Commons, Mr. Steele took upon him to say he had the same honourable sentiments of that gentleman in the following words:

'Mr. Jodrell;

'At the close of the last Parliament, her majesty was graciously pleased to declare from the throne, That the late rejected Bill of Commerce between Great Britain and France, should be offered to this House. That Declaration was certainly made, that every gentleman, who should have the honour to be returned hither, might make himself master of that important question. It is demonstration that was a most pernicious Bill, and no man can have a greater merit to this House, than his by whose weight and authority that pernicious Bill was thrown out. I rise up to do him honour, and distinguish myself by giving him my Vote for that his inestimable service to his country.'

It will be impossible for the reader to conceive how this Speech of his was received, except he has happened to have been at a cock match, and has seen the triumph and exultation which is raised when a volatile whose fall was some way gainful to part of the company has been necked. At the mention of the Bill of Commerce, the cry began; at calling it 'pernicious,' it increased; at the words, 'Doing him honour,' it grew insupportably loud: but having no reason for being confounded for other people's folly or absurdity, Mr. Steele bore the insolence well enough to speak out what he intended. He had hardiness enough to do it, from a resolution which he had taken, to govern himself by, when he went into the House, which was, to prefer the fame of an honest man to that of an orator. I must confess I stand in some amazement to find where the ridicule lay in the words 'I rise up to do him honour,' the natural meaning of which I take to be shewing him respect, and not implying that it is an honour to him that it is I who do him that respect: however, were it taken in the latter sense, in which Mr. Steele really did not intend it, I do not see the absurdity there would have been in it; he does not deserve to sit in that House, who does not believe his esteem an addition to the person's reputation on whom he bestows it; for the good opinion of an honest man is an honour to the greatest man living. At the same time Mr. Steele does not attribute this particular outrage to the House, any further than that they ought to have suppressed it, and severely observed upon it, by turning out the offenders, who, it is supposed, were a parcel of rustics who crouded in with the members before the election of the Speaker, from a received error, that there is no authority in the House till he is chosen. As he came out of the House, he could hear nothing but those loud critics talk to one another, 'Oh! it is not so easy a thing to speak in the House—He fancies, because he can scribble——' and the like deep animadversions. But to the matter itself.

On the 12th of March, 1713-14, a Complaint was made to the House against certain paragraphs in three printed Pamphlets, one intituled, 'The Englishman,' from Saturday, Jan. 16, to Tuesday, Jan. 19, 1713, wherein is a printed Letter to the Englishman, to which is subscribed the name 'Richard Steele;' another, intituled, 'The Crisis,' in the title page whereof it is said, 'by Richard Steele, esq.;' and the other, intituled 'The Englishman being the close of the paper so called,' in the title page whereof it is also said, 'by Richard Steele, esq.' as containing several paragraphs tending to sedition, highly reflecting upon her majesty, and arraigning her administration and government. Upon which the accused member was ordered to attend in his place the next morning. He attended accordingly on Saturday the 13th, and heard the several paragraphs, in the printed Pamphlet complained of, read. After which, at the proper time, he stood up, and read a Paper containing the following words:

"Mr. Speaker;

"I have written and caused to be printed several books and papers with a sincere zeal and good intent to serve my queen and country, the present happy establishment in Church and State, and particularly the Protestant Succession in the House of Hanover. But I submit it to the House, whether, in justice to the defence that is due to every subject of this kingdom, I ought to admit that either the contents or substance of the papers laid upon your table are the same I wrote and caused to be printed, before I have perused and compared them; especially since every one knows it to be fact, that false editions of books, which sell, are published every day.

"Mr. Speaker, Though I was ordered to attend in my place before any particular passages, if I am rightly informed, were read or objected to in the House; and yet now that I have heard what they are, I trust to the justice of this House, that I shall have a reasonable time to peruse and compare them, and if I find them

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upon perusal to be really the same which I wrote and published, I shall ingenuously own them, and hope to make such a defence of them as will be satisfactory to the House; for which, I doubt not but you will allow me sufficient time."

Since time for comparing them was all Mr. Steele pretended to, the Monday following was proposed for the day of his defence; but that was easily got over, upon his urging that the next day was Sunday. After a proper time to be allowed was debated for some moments, and that the desiring to collate the papers was said to be mentioned only as the most obvious circumstance absolutely necessary for the Member's Defence, but that much more must be supposed as material, as that, for his justification, the House seemed in a very good disposition, which the accused member did not think he abused in desiring till the Saturday following. It was very faintly pressed that this was too distant a day, till a particular Orator stood up, and endeavoured to warm the House into an indignation of treating, with so much gentleness, so high an offender. It cannot be expected that one can remember every man's name; but the man I mean was of an enormous stature and bulk, and had the appearance, if I may so speak, of Dwarf-Giant. His complexion tawny, his mein disturbed, and the whole man something particularly unfamiliar, disingenuous, and shocking to an English constitution. I fancied, by his exotic make, and colour, he might be descended from a Moor, and was some purchase of our African, or other trading company, which was manumised. This man, thought I, was certainly bred in servitude, and being now out of it, exerts all that he knows of greatness in insolence and haughtiness. The untamed creature stood up to turn off the merciful inclination which he saw grown towards the member accused; and with well-chosen words and personated vehemence, laid before the House, that he, forsooth, was glad to see the good disposition gentlemen appeared to be in, and applauded their tenderness; but at the same time he could not but remark, that the drift of the writings before them was to make the greater number of the gentlemen of England appear Jacobites and enemies to their country. I do not pretend to give exactly what he said to this unjust and cruel purpose; but it prevailed very much towards the effect he desired, and loosened all that was obtained on the side of the defendant in the preceding part of the debate, insomuch that Mr. Steele grew in fear he should have no time at all allotted him; and therefore when the House was going to divide on the question, whether he should be allowed till Saturday or not, he stood up and begged till Thursday, in which request Mr. Pitt of Worcestershire had the humanity to second him, and the affair was appointed for that day without a division.

On Monday following, the 15th of March, believing a great part of the ill-will which he had brought upon himself was owing to what he had writ about Dunkirk, he thought it would make for his defence to have what passed relating to the collusive demolition appear to the House before his day came on. Mr. Steele therefore (upon the suggestion of some friend's voice near him to be very humble) had the folly to pretend to move their pity, by a comparison of the powerful opposition against him from those who were numerously related in the House, and in such circumstances as to draw all others to them; and representing his own condition so particularly unallied and unassisted, that there was not one man living of his blood, nor he in circumstances capable of engaging the friendship of any man there but from the merit of his cause. 'I have,' said that facetious person, 'This to thank my adversaries for, that their hard prosecution has opened so good a way to the breasts of Englishmen as pity.' From this ill-judged quaint harangue, which was received with much coldness, he recovered himself as well as he could, by observing, That he never knew an unhappy man speak but just enough; and therefore would not wander further, but hasten to the question which he had prepared and held in his hand, as of use to his ensuing Defence; which was

"That an humble Address be presented to her majesty, that she will be pleased to give directions, that the several representations of her majesty's engineers and officers who have had the care and inspection of the demolition of Dunkirk, and all orders and instructions given thereupon, be laid before this House." It passed in the negative. And from that moment Mr. Steele despaired of his cause. He prepared his mind as well as he could to meet with his disgrace; and considered all that was to follow as a farce, wherein heedless men were to indulge their curiosity, mirth, or cruelty, without any regard to justice, or how far what they were doing would affect him or themselves. But Thursday the 18th is now come; and the order of the day for taking into consideration the Printed Pamphlets complained of to the House being read, Mr. Foley the accuser demanded that the matter appointed for the day might be entered upon, referring the method of proceeding to the House. Mr. Steele chose to make his appearance near the bar of the House; and I will not forget to mention one circumstance in this scene that very much sweetened his afflictions, which was, that he had the honour to stand between Mr. Stanhope and Mr. Walpole, who condescended to take upon them the parts of his advocates. The first Question proposed to divert the company, was, Whether the member accused owned the writings or not? upon which Mr. Steele stood up and said,

"Mr. Speaker,

"When I was called up the other day upon the same occasion, I suspended the utter acknowledgment of the papers laid on your table against me. I was advised to do so. What has hitherto been insisted upon by me was mere formality, in favour of other innocent

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men who may hereafter fall into my circumstances. I now frankly and ingenuously own all those papers laid to my charge to be parts of my Writings. I writ them in behalf of the House of Hanover, and I own them with the same unreservedness with which I abjured the Pretender. I humbly submit my self to this honourable Assembly, and depend upon your justice."

This occasioned a long debate, and in the intervals between the speaking of particular members, the House called out, Mr. Steele, Mr. Steele, to begin his Defence; but his friends directed him to sit still. The dispute in a little time ripened into this question, Whether the member accused should answer paragraph by paragraph, and hear what was urged against him to each, and thereupon answer; or that, now he knew upon what heads he was charged, he should proceed to defend himself? It seems it is the custom on such occasions, that if the member withdraws without speaking for himself in the way the House prescribes to him, he is to have no further opportunity before the House proceeds to Censure: It was therefore intimated to him that now was his time to stand up; and making use of his papers he sometimes spoke, but chiefly read as follows:

"Mr. Speaker; You will easily believe I have not been in a very sedate temper ever since I came into this House. When I composed those writings of which I am accused, I studied carefully to avoid committing any fault in them, and now on a sudden I am to rack my invention to find out guilt in them. I have also been forced to apply myself to the making my Defence paragraph by paragraph, as well as according to this method to which you have now been pleased to restrain me. From these accidents, the different opinions of friends, being suspended between these opinions, want of sleep, and being pressed in point of time, I am in a very ill condition to make a Defence. But if you will forgive my blundering and stammering amidst an huddle of papers you see in my hands, not read over since transcribed, and the references from some to others of them not fixed in my mind, you shall have the truth of my heart in this discomposure, which will I hope with generous men do more for me, than what I could have produced with more meditation. I must therefore, as well as I can, from papers which, as I said, I have not so much as read over since transcribed, obey your commands; and fall abruptly into the particulars of my Defence, the way to which I thought to make in a more gradual and unforced manner, upon the views I had before I came into the House.

"I have not, I hope, written any thing with an improper heat, though I have not shewn an insensibility; and those who condemn what heat I have shewn, will at least approve the ends to which it was directed.

"If my wishes for the demolition of Dunkirk, and my zeal for that Succession which is the only security under God of our laws, our liberties, and our religion, have betrayed me into any errors which I am not sensible of, I hope the goodness of these motives which occasioned them, will be sufficient to extenuate and cover them. I am sure there are several writers who have talked with as much warmth and more boldness for a quite contrary end, without giving the same offence to those in whose power it has been to punish them: I say, sir, that there are many who have written with as great a zeal in a cause which is condemned as treasonable by our acts of parliament, and yet have had the good luck to escape the notice of those who have had either the making of laws or the putting them in execution. Besides, whilst I have thus preserved my temper, it must be allowed that no man ever received greater provocations. Those writers who declared themselves the professed advocates of the ministry, and give themselves the air of being in the secrets of the administration, were the first aggressors. They have loaded me with groundless calumnies, misrepresented me in every part of my character, and have been as disingenuous and unchristian in the methods of publishing these false reports, as they were in the inventing of them. When I had the honour to be returned as a member of parliament, and was therefore presumed to be such, instead of being thereby privileged from this infamous treatment, I was only the more exposed to it. These papers I am now speaking of prejudged my election, denounced to me the displeasure of men in great places, and foretold that storm which is now fallen upon me, unless it be averted by the justice and honour of gentlemen, who are the only persons that can interpose in this case between an innocent man and an offended minister. Such has been the cruel and ungenerous usage which I have met with from an author who has several times professed himself a champion for the ministry, that no longer since than last Friday he has fallen upon me with that rage and malice, which is unbecoming a scholar, a gentleman, or a christian, at the same time that so great a misfortune befel me as to be accused before this House. As if he did not think that weight heavy enough upon me, he makes his court to his superiors by determining the cause which lay before this honourable assembly, and represents me in such a character as I hope is due to no man living. I cannot but take notice of his last paper, which, if any gentleman will be at the pains of perusing, he will find, (by what strange accident or concerted measures I know not) that it is a brief of the charge against me before this House. It was in answer to this writer that I first employed my pen, and, as I thought, for the service of my country. This man has represented half of her majesty's subjects as a different people, who have forfeited the common protection allowed them by the constitution; but has never been called to account for it 'as a writer of matters tending to sedition.' He has treated the fathers of our church like the basest among the people, tore in pieces the

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reputation of the most eminent names in Great Britain, marked out several members in both Houses of parliament, and endeavoured to render them odious to the nation, when they have disagreed with him in opinion, or rejected any bill which the ministry had seemed to promote. He has vilified those persons which are in friendship and alliance with her majesty, and condemned treaties which are still in force. He has trifled upon so melancholy a subject as that of her majesty's late indisposition, and represented her as actually dead, for the sake of a poor conceit which the greatest part of his readers were not able to take, and those who did could not but regard with horror. All this, sir, the author I am now mentioning has done, without being called to account for any reflection 'tending to sedition, highly reflecting upon her majesty, and arraigning her 'administration and government.' In the opinion of the world he has not only done all this with impunity, but with encouragement. It is chiefly in answer to this author, that those papers were written which are now upon your table. I could not see without indignation an endeavour set on foot to confound truth with falshood, and to turn the whole history of the present times into a lie. I thought I might act with the same safety in vindicating, as he did in attacking the reputation of several innocent persons, who are unblemished every where but in his papers; and of many honourable persons, who by all sides are allowed to have deserved well of their country. And now, sir, let every British gentleman lay his hand upon his heart, and ask himself, Whether it was possible for a man of any spirit to have received those private and personal injuries which I have here mentioned, or for any honest man to have seen others so barbarously treated, without giving some loose to his resentments. Sir, a good name is as dear to me as it can be to the greatest man in England; and whoever employs all his artifices to make me appear vile and infamous, cannot be angry with me if I lay hold on what I think defective in his own character and behaviour, to expose it in the same manner. I am sure no man of honour, and it is my happiness that this assembly is composed of no other, would make such a sacrifice of himself to any, the most powerful of his fellow subjects. I know no law of God or man that requires this kind of resignation or self-denial.

"I have been the longer upon this head, to shew gentlemen that this great affair which is now laid before them, has been hitherto, notwithstanding the many insolencies I have now recited against the greatest persons in Church and State, only a paper war between two private persons; and they must have but a mean opinion of the dignity of a British House of Commons, who think they will make themselves parties in either side of it. Besides, I have another reason for opening my Defence in this manner, because I find that the first Paragraph which is laid to my charge, can accuse me of nothing else but of shewing a disrespect to the Examiner. Here follows, as it is marked against me, what I say in the Englishman, Number 46.

'But there is still a circumstance in the 'same paper of the Examiner's that may have 'a consequence yet more immediately pernicious, and that is the last sentence of it; '"Since her majesty is to be the last, we hope 'they will be obliged to own her for the greatest 'and wisest of the Stuarts." I cannot but 'think this expression uttered as lamenting in 'favour of a pretended Stuart, in whose behalf 'he sighs, and says, Since her majesty is to be 'the last. The natural way of speaking his 'sense, in a man who was in the interest of his 'country, had been to say, as her majesty 'without issue is to be the last. But whether his inclinations be for the Pretender or 'not, I am sure he promotes his service in a 'very great degree, when he endeavours to 'vilify that House of Commons which is now 'laying a price upon his head.—But let the 'rest of the world do what they please, and 'delay their protestations against these evils as 'long as they think fit, I will postpone all else 'that is dear to me to the love of my country: 'and as this is, and I trust in Providence will 'be my strongest passion to my life's end, I 'will, while it is yet day, profess, and publish 'the rules by which I govern my judgment of 'men and things in the present conjuncture.—'Does this action bespeak such a one a wise 'man if he is for the Pretender, a madman if 'he is for the house of Hanover?—Does this 'position open a way to the Pretender? Or, 'does it further secure the Protestant Succession?—These are my questions, which I 'make the test of men and opinions; and if a 'man does a thing that may advance the interest of the Pretender or his friends, and can 'no way do good to the House of Hanover, he 'may swear to his last breath that he is for 'that House, before he shall make me believe 'him. In like manner, if people talk to me of 'hereditary right, and then follow it with professions for the House of Hanover, which can 'have no additional security from the urging of 'hereditary right, I shall no more believe them 'Hanoverians,' than I should think a man 'religious who should make a blasphemous 'discourse, and close it with the rehearsal of 'the creed.—I speak all this because I am 'much afraid of the Pretender; and my fears 'are encreased, because many others laugh at 'the danger. I presume to say, those who do 'laugh at it either do not think at all, or think 'it will be no day of danger to themselves. 'But I thus early let go my fire against the Pretender's friends, because I think myself a 'very good judge of men's mien and air, and 'see what they intend at a distance. I own I 'have nothing to say for the liberty I take 'now, or the book I put out to day, when 'no body else talks in the same stile, but what 'the sailor did when he fired out of the stage-'coach upon highway-men before they cried

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'Stand; Would you have me stay till they 'have boarded us?'

"My adversaries must make the Examiner one of the ministry, before they can bring the first of these paragraphs within their complaint. I cannot suppose that any Englishman can think me to blame for expressing my love to my country in the strongest terms, as I have here done. As to the rules by which I profess to govern my judgment, they are, I suppose, what none will controvert, as being of the nature of maxims or first principles, which can admit of no dispute. The paragraph that follows them is nothing else but the application of these general and undisputed maxims to a particular case. I cannot imagine why any gentleman should mark it in particular, unless for the sake of the word Hereditary; a word that teems with so many disputes, and which, according to my notion of it, is inconsistent with the Succession in the House of Hanover, which cannot be come at but by passing over many of those who are the next heirs in blood. But it happens that I have explained myself as to this point in the Englishman, Number 5, where I say,

'The unhappy animosities which have reign-'ed amongst us, have made each side reduce 'itself to an absurdity, from their violence of 'opposing each other. While the one urges a 'parliament title, his warmth betrays him into 'expressions disrespectful to the sovereignty; and 'his opponent expresses his indignation at prin-'ciples too near the sentiments of common-'wealths-men, with carrying too far the terms 'hereditary and indefeasible. Let them both 'agree that the queen is vested in all the rights 'inherent in the Crown of England, and in de-'fault of issue, the same titles devolved upon 'the House of Hanover. When we talk of 'hereditary in general, all who can be per-'suaded that the Pretender is the son of 'James 2, may be insnared to conclude that 'his title is superior to that of any other upon 'earth: but when we allow that the Act of Set-'tlement, and the other subsequent acts, have 'well vested all possible Title in her majesty 'and the House of Hanover, the Englishman 'has but one view before him; and any title 'of the Pretender, of whomsoever born, is as 'remote as that of the Tudors or Plantagenets, 'or any other extinct family.—In this plain 'rule for the direction of our obedience, we 'have nothing to divert our thoughts from pur-'suing the real interest of our queen and coun-'try; and all, as one man, will join in a common 'indignation against those who would perplex 'our obedience, as faithful subjects and Eng-'lishmen.'

"The last paragraph expresses my fears of the Pretender, which I must still acknowledge; at least I can see nothing criminal in them, till such time as it shall be made a crime to say that the Protestant Succession is in danger. I thought I had reason to apprehend this danger, from the power of one who had declared himself the friend and patron of the Pretender, from his present residence with a prince who has been ineffectually applied to for his removal; from the apprehensions of a whole House of Commons in another kingdom, where men have been actually listed for his service; from addresses sent out of North Britain; from books written and published in vindication of his title. I thought my fears were not too early, when the danger appeared so imminent; and I believe every gentleman will concur with me, that it is more for the safety of the public we should, in this great case, be affrighted with imaginary danger, than lulled into imaginary security.

"I come now, Sir, to those passages which are marked in the Dedication to the Crisis. The first paragraph runs thus:

'I will take the further liberty to say, That 'if the acts of parliament mentioned in the 'following treatise, had been from time to 'time put in a fair and clear light, and had 'been carefully recommended to the perusal 'of young gentlemen in colleges, with a prefer-'ence to all other civil institutions whatsoever, 'this kingdom had not been in its present con-'dition, but the constitution would have had, 'in every member the universities have sent 'into the world since the Revolution, an ad-'vocate for our rights and liberties.'

"I suppose, Sir, those who have marked this passage, would fetch an inuendo out of it that I speak disrespectfully of the universities; an imputation which I thought could never be laid to my charge, as may appear by innumerable passages that may be drawn out of books which I have published. It would take up the time of this House too much, should I desire that all those passages should be read; I shall therefore only beg leave to make use of that work which is intitled the Englishman, to vouch for me in this particular. In the paper of that name, Number 12, I thus express myself:*

'Our wholesome laws, large provisions, and 'the exemplary characters of our divines, place 'them above the necessity of practising false 'arts, to be in themselves, their families, and 'their posterity, the most happy as well as the 'most eminent of the people. If therefore 'they will at any time separate themselves 'from the common interest of their country, 'such errors in them must necessarily render 'them, in instances which might be indifferent 'in others, to a degree schismatics in the 'church, and rebels in the state.'

"And I also say in the Englishman, Number 34† I have ever been of opinion, that our uni-'versities, as they have been the strongest sup-'port of our church, will be no less zealous for 'the defence of our civil liberties, whenever 'they shall see them openly attacked. One of 'those illustrious societies cannot yet have 'forgot, when, by a most unexampled piece of 'cruelty, six and twenty of her members, for re-

* Written by Mr. Steele himself.

† Written by a correspondent of Mr. Steele.

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'fusing to be guilty of direct perjury, and bravely 'opposing an illegal commission, were all of 'them deprived of their fellowships, made in-'capable of any ecclesiastical dignity; and 'such of them as were not then in holy orders 'declared and adjudged incapable of being ever 'admitted into the same. I shall conclude with 'this observation, That these noble foundations 'and monuments of the virtue of our ancestors, 'are in their very nature directly opposite to ty-'ranny and unlimited power; since as igno-'rance is a natural consequence of slavery, arts 'and sciences may be properly called the eldest 'daughter of liberty.'

"It appears by these, and many other passages in my writings, that I have retained the greatest honour and esteem for those learned bodies; in one of which I received a part of my education, and where I can still boast of much personal friendship and acquaintance. But I believe, Sir, there are none among those learned societies, who will think I derogate from them by any thing said in this paragraph. They themselves bewail their misfortune, that several nonjurors are gone out from among them, and several still remain with them, who are the most able defenders of that cause, and who, if they had rightly studied our constitution as settled by acts of parliament, might have been as able advocates for our Rights and Liberties. Sir, I have reason to esteem the universities, as I had the happiness to have had a part of my education in one of them: and it is for the like reason that I shall always have a veneration for the clergy, as having been bred up from my infancy (which I know not whether my accuser was or not) in the doctrine of the Church of England.

"The paragraph which follows in the Dedication of the Crisis is this:

'There is one thing which deserves your 'most serious consideration. You have bound 'yourselves by the strongest obligations that 'religion can lay upon men, to support that 'Succession which is the subject of the follow-'ing papers: you have tied down your souls 'by an oath to maintain it as it is settled in 'the House of Hanover: nay, you have gone 'much farther than is usual in cases of this 'nature, as you have personally abjured the 'Pretender to this crown; and that expressly, 'without any equivocations or mental reserva-'tions whatsoever; that is, without any pos-'sible escapes, by which the subtlety of tem-'porising casuists might hope to elude the force 'of these solemn obligations. You know much 'better than I do, whether the calling to God 'to witness to the sincerity of our intentions in 'these cases; whether the swearing upon the 'holy Evangelists in the most solemn manner; 'whether the taking of an oath before multi-'tudes of our fellow-subjects and fellow-chris-'tians in our public courts of Justice, do not 'lay the greatest obligations that can be laid 'on the consciences of men. This I am sure of, 'that if the body of the clergy, who consider-'ately and voluntarily entered into these en-'gagements, should be made use of as instru-'ments and examples to make the nation break 'through them, not only the Succession to our 'crown, but the very essence of our religion, is 'in danger. What a triumph would it furnish 'to those evil men among us, who are enemies 'to your sacred order? What occasion would 'it administer to Atheists and unbelievers to 'say, That Christianity is nothing else but an 'outward show and pretence among the most 'knowing of its professors: what could we af-'terwards object to Jesuits? What would be 'the scandal brought upon our holy church, 'which is at present the glory and bulwark of 'the reformation? How would our present 'clergy appear in the eyes of their posterity, 'and even to the succession of their own 'order, under a government introduced and 'established by a conduct so directly oppo-'site to all the rules of honour and precepts of 'Christianity?'

"A man may own he apprehends that holy and recluse men may be misled by artful ones, without any imputation to their characters of weakness or guilt. And I here only take the liberty of all writers, to suppose a case which is not likely to happen; and by that means to animate the zeal of those to whom I address myself, for that cause of the justice of which they are already persuaded. This is a way of arguing made use of by every one who would bring over his reader to a zeal for what he advances. What is more frequent than to hear from the pulpit itself, the scandal that would be brought upon Christianity, should the professors of it deviate from those rules which it prescribes? And it would be as just to say, that the preacher does by this method insinuate that his hearers are not Christians, as it would be to imply from that paragraph which I have now read, that our English clergy are against the Protestant Succession: Nay, I think, nothing can be so great an argument that I believe they are for it, as thus laying before the reader those solemn engagements that this holy order of men have entered into for its preservation. But to take off all possibility of an inuendo in this place, I have, in the paragraph which immediately follows, disclaimed every such implication; where I say,

'As I always speak and think of your holy 'order with the utmost deference and respect, 'I do not insist upon this subject to insinuate 'that there is such a disposition among your 'venerable body, but to shew how much your 'own honour and the interest of religion is 'concerned, that there should be no cause 'given for it.'

"It would be very unfair to separate my words, and to pronounce a meaning in them, which I have not expressed, when that which I have expressed is a positive denial of having entertained any such meaning.

"Sir, I am afraid that those that stir up this accusation against me, only make use of the name of the clergy to give it a more popular

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turn, and to take off the odium from themselves, by the use of such venerable names. But I hope this accusation will be thought to proceed from the real cause of it; and if any hardship should fall upon me, as I know there cannot, whilst I have the honour and happiness to be heard before this house, that it will rather be imputed to the resentments of an angry minister than of an injured clergy.

"Sir, if I can arrogate to myself any little merit from the writings which I have published, it is chiefly this: That I have personally opposed such authors as have endeavoured to ridicule religion, and those holy professors of it. I have received several approbations in public and in private, from men in holy orders, for my concurring with them, to the best of my poor abilities, in the advancement of morality, and in beating down that unreasonable humour which had prevailed with so many writers to expose their persons and profession to the derision of foolish and wicked men. I must beg leave, on this head, to produce some out of innumerable passages which speak with the utmost deference and respect of their holy calling in general, and of some particular persons in it, for whom, I believe, most of the gentlemen of this House have a very great and just esteem.

"I shall first cite one or two very short passages out of a book called, The Guardian, which has been mentioned in this House; and which was published not long since. The first of which passages is in the 13th, 14th, and 15th pages of the 1st volume, in the following terms.*

'I am diverted from the account I was giving the town of my particular concerns, by 'casting my eye upon a treatise, which I 'could not overlook without an inexcusable 'negligence, and want of concern for all the 'civil as well as religious interest of mankind. 'This piece has for its title, 'A Discourse of 'Thinking, occasioned by the rise and growth 'of a sect called Free Thinkers.' The author 'very methodically enters upon his argument, 'and says, by Free Thinking I mean the use of 'the understanding, in endeavouring to find out 'the meaning of any proposition whatsoever, 'in considering the nature of the evidence for 'or against, and in judging of it according to 'the seeming force or weakness of the evidence. As soon as he delivered this definition, from which one would expect he did not 'design to shew a particular inclination for or 'against any thing, before he had considered 'it; he gives up all title to the character of a 'Free Thinker, with the most apparent prejudice against a body of men, whom of all 'others a good man would be most careful not 'to violate, I mean men in holy orders. Persons who have devoted themselves to the service of God are venerable to all who fear 'him; and it is a certain characteristic of a 'dissolute ungoverned mind, to rail or speak 'disrespectfully of them in general. It is certain that in so great a crowd of men, some 'will intrude who are of tempers very unbecoming their function. But because ambition 'and avarice are sometimes lodged in that 'bosom, which ought to be the dwelling of 'sanctity and devotion, must this unreasonable author vilify the whole order? He has 'not taken the least care to disguise his being 'an enemy to the persons against whom he 'writes, nor any where granted, that the institution of religious men to serve at the 'altar, and instruct such who are not as wise 'as himself, is at all necessary or desirable; but 'proceeds without the least apology to undermine their credit, and frustrate their labours. 'Whatever clergymen, in disputes against 'each other, have unguardedly uttered, is here 'recorded in such a manner as to affect religion itself, by wresting concessions to its 'disadvantage from its own teachers. If this 'be true, as sure any man that reads the discourse must allow it is; and if religion is 'the strongest tye of human society; in what 'manner are we to treat this our common 'enemy.'

"I shall cite another passage, Sir, which is taken out of the 245th and 246th pages of the 2nd volume of the same work, and contains the following words:*

'But if to inform the understanding, and 'regulate the will, is the most lasting and diffusive benefit, there will not be found so useful and excellent an institution as that of the 'Christian Priesthood, which is now become 'the scorn of fools.—That a numerous order 'of men should be consecrated to the study of 'the most sublime and beneficial truths, with 'a design to propagate them by their discourses 'and writings, to inform their fellow-creatures 'of the being and attributes of the Deity, to 'possess their minds with the sense of a future 'state, and not only to explain the nature of 'every virtue and moral duty, but likewise to 'persuade mankind to the practice of them by 'the most powerful and engaging motives, is a 'thing so excellent and necessary to the well-'being of the world, that nobody but a modern free-thinker could have the forehead or 'folly to turn it into ridicule.—The light in 'which these points should be exposed to the 'view of one who is prejudiced against the 'names Religion, Church, Priest, and the like, 'is, to consider the clergy as so many philosophers, the churches as schools, and their sermons as lectures for the information and improvement of the audience. How would the 'heart of Socrates or Tully have rejoiced, had 'they lived in a nation where the law had made 'provision for philosophers to read lectures of 'philosophy every seventh day in several thousand of schools erected at the public charge

* Written by Mr. Steele himself.

* "This most reasonable and amiable light in which the clergy are here placed, comes from that modest and good man the Rev. Mr. Bartlett."

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'throughout the whole country, at which lectures all ranks and sexes without distinction were obliged to be present for their general improvement? And what wicked wretches would they think those men, who should endeavour to defeat the purpose of so divine an institution?'

"It ever was my sentiment, before I could have formed to myself any views of such engagements as those I have since fallen into, that respect to clergymen and their prosperity are essential to the good of society. Give me leave, Mr. Speaker, on this occasion, to read to you a passage out of a little Tract called 'The Christian Hero;' the 58th page, speaking of the enemies to the Christian name, and persons who envied the clergy, runs thus:

'But alas! its state is as much militant as ever; for there are earthly and narrow souls as deeply scandalized at the prosperity the professors and teachers of this sacred faith enjoy, and object to them the miseries and necessities of the primitive believers. Light and superficial men! not seeing that riches is a much more dangerous dispensation than that of poverty. This we oppose as a foe, that we run to as a friend; and an enemy does his business more successfully in an embrace than a blow. But since the necessaries, conveniencies, and honours of life which the clergy enjoy, are so great an offence to their despisers, they are the more engaged to hold them dear; for they who envy a man what he has, would certainly scorn him without it. When therefore they are both in good and bad fortune irreconcileable to them, may they always offend with their happiness: For it is not to be doubted, but that there are bishops and governors in the Church of England, whose decent hospitality, meekness, and charity to their brethren, will place them in the same mansions with the most heroic poor, convince the mistake of their enemies, and shew that the eternal pastor has given his worldly blessings into hands by which he approves their distribution; and still bestows upon us great and exemplary spirits, that can conquer the difficulties and enchantments of wealth itself.'

"I have carried this inclination to the advancement of virtue so far, as to pursue it even in things the most indifferent and which, perhaps, have been thought foreign to it. To give you an instance of this, Sir, I must mention a Comedy called 'The Lying Lover,' which I writ some years ago, the Preface to which says,

'Though it ought to be the care of all governments, that public representations should have nothing in them but what is agreeable to the manners, laws, religion, and policy of the place or nation wherein they are exhibited; yet it is the general complaint of the more learned and virtuous amongst us, that the English stage has extremely offended in this kind. I thought therefore it would be an honest ambition to attempt a comedy, which might be no improper entertainment in a Christian Commonwealth.'

"Mr. Collier had, about the time wherein this was published, written against the immorality of the Stage. I was (as far as I durst for fear of witty men, upon whom he had been too severe) a great admirer of his work, and took it into my head to write a comedy in the severity he required. In this play I make the spark or hero kill a man in his drink, and finding himself in prison the next morning, I give him the contrition which he ought to have on that occasion. It is in allusion to that circumstance that the Preface further says as follows:

'The anguish he there expresses, and the mutual sorrow between an only child and a tender father in that distress, are perhaps an injury to the rules of comedy, but I am sure they are a justice to those of morality: And passages of such a nature being so frequently applauded on the Stage, it is high time that we should no longer draw occasions of mirth from those images which the religion of our country tells us we ought to tremble at with horror.—But her most excellent majesty has taken the Stage into her consideration; and we may hope, from her gracious influence on the muses, that wit will recover from its apostacy; and that by being encouraged in the interests of virtue, it will strip vice of the gay habit in which it has too long appeared, and cloath it in its native dress of shame, contempt and dishonour.'

"I cannot tell, Sir, what they would have me do to prove me a Churchman; but I think I have appeared one even in so trifling a thing as a comedy: And considering me as a comic poet, I have been a martyr and confessor for the church; for this play was damned for its piety.

"I shall in the last place, Sir, with your allowance, quote some passages out of another Book, intitled, 'The Tatler;' the first of which is in the 37th page of the first volume, published in 1710, as follows.*

'Will's Coffee-house, April 20, 1709.

'This week being sacred to holy things, and no public diversions allowed, there has been taken notice of, even here, a little treatise, called "A Project for the Advancement of Religion; dedicated to the Countess of Berkley." The title was so uncommon, and promised so peculiar a way of thinking, that every man here has read it, and as many as have done so have approved it. It is written with the spirit of one who has seen the world enough to undervalue it with good breeding. The author must certainly be a man of wisdom as well as piety, and have spent much time in the exercise of both. The real causes of the decay of the interest of religion, are set forth in a clear and lively manner, without unseasonable passions; and the whole air of the book, as to the language, the sentiments and the reasonings, show it was written by one whose vir-

* Written by Mr. Steele himself.

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'tue sits easy about him, and to whom vice is 'thoroughly contemptible. It was said by one 'of this company, alluding to that knowledge 'of the world the author seems to have; The 'man writes much like a gentleman, and goes 'to Heaven with a very good mien.'

"The gentleman I here intended was Dr. Swift; this kind of man I thought him at that time: We have not met of late, but I hope he deserves this character still.

"The second passage which I shall cite out of that work, is in the 116th and 117th pages of the second volume published the same year 1710. *

'The Dean we heard the other day together 'is an orator. He has so much regard to his 'congregation, that he commits to his memory 'what he is to say to them; and has so soft and 'graceful a behaviour that it must attract your 'attention. His person, it is to be confessed, 'is no small recommendation; but he is to be 'highly commended for not losing that advan-'tage, and adding to the propriety of speech '(which might pass the criticism of Longinus) 'an action which would have been approved 'by Demosthenes. He has a peculiar force in 'his way and has many of his audience, who 'could not be intelligent hearers of his dis-'course, were there not explanation as well 'as grace in his action. This art of his is used 'with most exact and honest skill. He never 'attempts your passions till he has convinced 'your reason. All the objections which he 'can form are laid open and dispersed, before 'he uses the least vehemence in his sermon: 'but when he thinks he has your head, he very 'soon wins your heart; and never pretends to 'show the beauty of holiness, till he hath con-'vinced you of the truth of it.'

"The third passage which I shall cite from that work, is taken out of the 168th and 169th pages of the same volume.*

'This matter is too sacred for this paper; 'but I can't see what injury it would do any 'clergyman, to have it in his eye, and believe 'all that are taken from him by his want of in-'dustry are to be demanded of him. I dare say 'Favonius has very few of these losses. Favo-'nius, in the midst of a thousand impertinent 'assailants of the divine truths, is an undisturb-'ed defender of them. He protects all under 'his care, by the clearness of his understanding 'and the example of his life. He visits dying 'men with the air of a man who hopes for his 'own dissolution, and enforces in others a con-'tempt of this life, by his own expectation of the 'next. His voice and behaviour are the lively 'images of a composed and well governed zeal. 'None can leave him for the frivolous jargon of 'the ordinary teachers among dissenters, but 'such who cannot distinguish vociferation from 'eloquence, and argument from railing. He is 'so great a judge of mankind, and touches our 'passions with so superior a command, that he 'who deserts his congregation must be a stran-'ger to the dictates of nature, as well as to 'those of grace.'

"In fine, sir, the last passage which I shall cite out of that work, is taken from the preface to the 4th volume, published in 1711, where it is said,

'What a man obtains from the good opinion 'and friendship of worthy men, is a much great-'er honour than he can possibly reap from any 'accomplishments of his own. But all the cre-'dit of wit, which was given me by the gen-'tleman above-mentioned (with whom I have 'now accounted) has not been able to atone for 'the exceptions made against me for some 'raillery in behalf of that learned advocate for 'the episcopacy of the Church and liberty of 'the people, Mr. Hoadly. I mention this only 'to defend myself against the imputation of 'being moved rather by party than opinion; 'and I think it is apparent I have with the ut-'most frankness allowed merit wherever I 'found it, though joined in interests different 'from those for which I have declared my self. 'When my Favonius is acknowledged to be Dr. 'Smalridge, and the amiable character of the 'dean in the 66th Tatler, drawn for Dr. At-'terbury, I hope I need say no more as to im-'partiality.'

"Sir, I shall give you no more instances on this head, but shall beg that common candour from gentlemen, which is allowed to every body; that if my intention should appear doubtful or suspicious in any one passage, it may be explained by others which are more plainly and fully expressed. Sir, since I have touched upon the word religion, I hope I may be indulged one sentence more before I quit this head, and if I speak as a fool, that you will bear with me. I have in several of my writings espoused the interests of virtue and religion, and have reason to hope I have been of some use to the public upon that account. Why may not these now plead for me? I wish those who have written against me, and have contributed their utmost to bring me into my present misfortune, may in their day of adver-sity have the same foundation for support in themselves, and claim to your favour.

"I now come, Sir, to the Passages marked in the first and second pages of the Crisis.

'But since, by I know not what fatality, we 'are of late grown supine, and our anxiety for 'it' [speaking of liberty,] 'is abated, in pro-'portion to the danger to which it is every day 'more exposed, by the artful and open attacks 'of the enemies of our constitution: It is a sea-'sonable and honest office to look into our cir-'cumstances; and let the enemies of our pre-'sent establishment behold the securities which 'the laws of the country have given those who 'dare assert their liberties, and the terrors they 'have pronounced against those who dare un-'dermine them. For whatever is the prospect 'before our eyes, it is the business of every 'honest man, to look up with a spirit that be-'comes honesty, and to do what in him lies for 'the improvement of our present condition,

* Written by Mr. Steele himself.

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'which nothing but our own pusillanimity can 'make desperate. The most destructive cir-'cumstance in our affairs seems to be, that by 'the long and repeated insinuations of our 'enemies, many are worn into a kind of doubt 'of their own cause, and think with patience of 'what is suggested in favour of contrary pre-'tensions. The most obvious method of re-'viving the proper sentiments in the minds of 'men, for what they ought to esteem most 'dear, is to shew that our cause has in it all 'the sanctions of honour, truth, and justice; 'and that we are, by all the laws of God and 'man, instated in a condition of enjoying reli-'gion, life, liberty and property, rescued from 'the most imminent danger of having them all 'for ever depend upon the arbitrary power of a 'popish prince.'

"I must here beg leave, Sir, to read the two or three following lines which are not marked, because they explain this latter part of this last paragraph, and show to whom these words are applied, where it is said, 'That we are by all 'the laws of God and man, instated in a con-'dition of enjoying religion, life, liberty, and 'property, rescued from the most imminent 'danger of having them all for ever depend 'upon the arbitrary power of a popish prince.' The following paragraph, which determines these words, runs thus:

'We should have been chained down in this 'abject condition, in the reign of the late 'king James, had not God Almighty in mercy 'given us the late happy Revolution, by that 'glorious instrument of his providence the great 'and memorable king William.'

"And now, Sir, can any one say, that we were not instated in a condition of enjoying religion, life, liberty, and property, by the late happy Revolution? Or that we were not before in the most imminent danger of having them all depend upon the arbitrary power of a popish prince? I appeal to the acts of parliament quoted in this book; and might appeal, as I am told, to a report of the grievances of this kingdom, under the reign of king James 2, made to this House by Paul Foley, esq.* father to the gentleman who has so remarkably distinguished himself against me this day. This report, as I am told, explains by a multitude of instances, drawn up in the strongest terms, the several particulars which I have here just touched upon. If the House thinks fit that I should in this place have the assistance of the father against the son, I will desire that that report may now be read: Or, if that be not thought fit, shall go on with my defence.

"And here, Sir, I think I may save you a great deal of time, by laying down a general rule which every one will agree, ought to take place in the perusal of any writing. That which I shall insist on is this; that if an author's words, in the obvious and natural interpretation of them, have a meaning which is innocent, they cannot without great injustice be condemned of another meaning which is criminal. If the same expression may be applied to different persons, and according to such application may be construed in my favour or to my prejudice, why should my words be applied to hurt me, when they may more naturally be applied in such a manner as is not capable of incurring censure? Thus, Sir, when I mention in the paragraph I have just now read, 'The artful and open attacks of the ene-'mies of our constitution, the enemies of our 'present happy establishment, the terrors which 'are pronounced against those who dare un-'dermine our liberties;' why must all these and the like expressions be applied to a minister, when there are such numbers of popish emissaries, jacobites and non-jurors, to whom these expressions by a natural and unforced construction are very applicable? Does not the supposition of such an inuendo, reflect highly upon a minister who has given no occasion for it? Is a man seditious, who speaks in plain and open terms against the enemies of our constitution and country? or, is it impossible to make use of those words, without comprehending under them, persons whom it is criminal to attack? By this way of arguing, it is not in the power of words to be free from unwarrantable hints and inuendos. Thus, Sir, in the next paragraph, where mention is made, of 'indirect arts and mean subtleties practised 'to weaken our securities:' are not these words as general as possible, applicable to multitudes of open enemies and disaffected persons, both in foreign dominions and in her majesty's kingdoms? or will any one say that indirect arts and mean subtleties can be practised only by one man in the kingdom? When there are two different interpretations to be put upon any expression, will any gentleman of candour and humanity regard that only which carries guilt in it? especially when the interpretation which must render such expression criminal, is violent and forced, whereas the other that renders them innocent, is obvious and natural? I shall, after this, beg leave to read, in this light, the next paragraph marked in the Crisis, p. 2.

'I flatter myself that if the passages which 'happened in those days, the resolutions of 'the nation thereupon, and the just provisions 'made from time to time, against our falling 'into the same disasters, were fairly stated and 'laid in one view, all indirect arts and mean 'subtilties practised to weaken our securities 'would be frustrated, and vanish before the 'glaring light of law and reason.'

"I cannot conceive why the other paragraph that follows page 2d and 3d, should have been marked, since it is no crime, nor any way tends to sedition, to speak in honour of parliaments, or to quote acts of parliament. Here it is:

* "In this Mr. Steele was misinformed, for there did not upon examination appear any such circumstance of Paul Foley, esq. but he was a very worthy man, though father to this squire Thomas."

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'I shall not govern myself, on this occasion, 'by the partial relations of particular persons 'or parties, but by the sense of the whole people, by the sense of the Houses of Lords and 'Commons, the representative body of the 'whole nation; in whose resolutions, according to the different state of things, the condition of the kingdom, by those who had the 'greatest stakes in it, has been from time to 'time plainly, impartially and pathetically expressed.'

"The next passage is in the Crisis, p. 27.

'And all this hath been done in so open a 'manner, and in so expressive and plain terms, 'that one cannot but think that our popish or 'jacobite party, who have been of late so bold, 'both in writing and speaking against the settlement of the crown of Great Britain in the 'protestant line, and cannot possibly plead 'ignorance of these things, must have some 'unaccountable encouragement for their support.'

"I here say that those who write or speak boldly and knowingly contrary to the tenor of acts of parliament, which I have before cited, and which are now in force, must have some unaccountable encouragement for their support; and the reason is very plain, because such a person is declared liable to the most grievous penalties who does act or speak after such a manner; But whether this unaccountable encouragement comes from the Pretender himself, the French court, or the dukes of Lorrain or Savoy, whose interest it may be to give them such encouragement, I do not pretend to determine: And I hope it will not be said that I do pretend to account for such an encouragement which I do here plainly declare to be unaccountable.

"The two next paragraphs are only a narrative or relation of matters of fact, which I conceived I might set down with that liberty which is allowed to the most common news-writer. Here they follow.

'If the beating the enemy in the field, and 'being too vigilant for their councils in foreign 'courts, were effectual means towards ending 'the war, and reducing them to a condition too 'low for giving fresh disturbance to Europe, 'the duke of Marlborough took just measures: 'But, however unaccountable it may appear to 'posterity, that general was not permitted to 'enjoy the fruits of his glorious labours: But, 'as France changed her generals for want of 'success in their conduct; so Britain changes 'hers, after an uninterrupted series of conquest. 'The minds of the people, against all common 'sense, are debauched with impressions of the 'duke's affectation of prolonging the war for 'his own glory; and his adversaries attack a 'reputation which could not well be impaired, 'without sullying the glory of Great Britain 'itself. His enemies were not to be softened 'by that consideration; he is dismissed, and 'soon after a cessation of arms between Great 'Britain and France is published at the head of 'the armies. The British, in the midst of the 'enemies garrisons, withdraw themselves from 'their confederates. The French, now no 'longer having the Britons, or their great leader 'to fear, affect no more strong garrisons and 'fortified camps, but attack and rout the earl 'of Albemarle at Denain, and necessitate the 'brave prince Eugene to abandon Landrecy, 'a place of such importance that it gave entrance into the heart of France. Of which 'the French king was so sensible, that before 'he was recovered from his fright, he acknowledged he owed in a manner his crown, to the 'suspension of arms between him and Great 'Britain. The suspension is followed by a 'treaty of Peace at Utrecht. The Peace is concluded between Great Britain and France, and 'between France and the States-General. The 'emperor and the empire continue the war! 'I shall not presume to enter into an examination of the articles of Peace between us and 'France; but there can be no crime in affirming '(if it be a truth) that the house of Bourbon is 'at this juncture become more formidable, and 'bids fairer for an universal monarchy, and to 'engross the whole trade of Europe, than it 'did before the war.—All the world knows 'with what frankness the Dutch have been 'treated to deliver up Traerbach to the imperialists, as an expedient for the French to besiege it; because forsooth it lies convenient 'for their incursions upon the empire. This 'extravagant demand must give a melancholy 'prospect to other nations.'

"If it be a crime to speak honourably of the duke of Marlborough, it is a crime that I must always be guilty of, and it is that which instead of denoting me a stirrer up of sedition, declares me to be a lover of my country. If I am rightly informed, that great man, when a circumstance relating to him was under your consideration during the last session of parliament, was mentioned in this place, not only with deference and respect, but with the highest encomiums by the most eminent members of this House. And I hope the most private man may take the liberty of expressing his gratitude to the duke of Marlborough, since there is no private man in England who is not obliged to him. Those who are represented as his adversaries and enemies, are only those who will always be so; I mean such who are friends to the Pretender and the French king, whose hopes he hath often and gloriously defeated. If any one question what I have said concerning the French king's letter, upon the raising of the siege of Landrecy, let him read that letter, and see what other interpretation can be put upon it.

"The last Sentence of this Paragraph I think defends itself, and is founded upon this maxim, which I fancy no gentleman will deny, That it is not a crime to speak the truth. Here is what follows in the 31st and 32d pages of the Crisis.

'The most important article between France 'and England, is the demolition of Dunkirk; 'which they have begun contemptuously and

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'urbitarily their own way. The mole and 'harbour, which only are dreadful to us, are 'yet untouched; and just suspicions given that 'they ever will be.'

"Sir, I always postpone my own private safety to that of my country; and therefore heartily wish that I lay open to the censure of this House for what I have here advanced. I say, sir, that I heartily wish, though I might have fared the worse for it at this time, that the event did not justify those apprehensions, which I have here, and in other papers expressed, in relation to Dunkirk. I have regulated my thoughts on that subject, by the treaty of Peace which has been published for the perusal of her majesty's subjects. It was thereby stipulated, that the mole and harbour should be first demolished: But instead of this, the French (for it is there I lay the blame) have only demolished the fortifications towards the land; and thus as I have said in another place, the queen's garrison is exposed, by levelling the works, to the mercy of the French; and the mole and harbour, which were first to be demolished, stand as they did. Will any one say that this proceeding of the French, so contrary to what was stipulated by the articles of Peace, is not begun contemptuously and arbitrarily their own way? The time stipulated by the same treaty for the demolition of the mole and harbour, is long since elapsed; and no longer since than a week ago, as I can prove by incontestable evidence, they were actually repairing that very mole, which should have been long before this a heap of ruins. These and many other reasons which I forbear insisting upon, will, I hope, explain what I have said in this paragraph, to every gentleman's satisfaction. Here is that which follows marked in the Crisis, p. 32.

'Landau and Fribourg are taken, and in case 'there is no intermediate Peace, which may 'still be more immediately fatal to us, 200,000 'French may be ready in the Spring to invade 'the empire, and restore the elector of Bava-'ria to his forfeited dominions.'

"Will any one say there was no danger to be apprehended from a Peace, which was treating, according to our public accounts, without her majesty's interposition? and when we had reason to fear that her majesty's ministers had no opportunity given them of promoting any thing in it for the good of their country, as not being let into the secret Have not our public prints told us, that England was not mentioned in the Treaty? Do they not speak of private articles, reciprocal complaisances, and several other particulars, which prove that the apprehensions I here mention were not altogether groundless?

"The next paragraph is only matter of fact, and an inference from it, which cannot be controverted. Here it is,

'These incidents happen when the capital 'of Austria, the residence of his imperial ma-'jesty, is visited with the plague. The male 'line of that House is likely to terminate in 'himself; and should it please God to take 'him off, and no king of the Romans chosen, 'a prince of the House of Bourbon would bid 'fair for the imperial dignity; after which 'day, farewel liberty, Europe would be French.

"Here is the paragraph that follows:

'But the scene is not yet closed; Portugal, 'which during the war, supplied to us the place 'of Spain, by sending us vast quantities of gold 'in exchange for our woollen manufactures, has 'only at present a suspension of arms for its 'protection, which suspension may possibly last 'no longer than till the Catalonians are re-'duced; and who knows but the old preten-'sions of Spain to Portugal may be then re-'vived? I mention the Catalonians, but who 'can name the Catalonians without a tear! 'Brave unhappy people! drawn into the war 'by the encouragement of the maritime 'powers, from which only a nation encom-'passed by land by France and Spain could 'hope for relief and protection, now abandoned 'and exposed to the resentment of an enraged 'prince, whose person and interest they have 'always opposed; and yet still so fond of their 'ancient liberties, that though hemmed up in a 'nook of land by the forces of the two crowns, 'and closely besieged in Barcelona, they chuse 'rather, like their countrymen the famous Sa-'guntines of old, to perish with their wives and 'children, than live in slavery. Did the French 'king with a conquering sword in his hand, 'ever abandon the least and most incon-'siderable of all his allies? No. When these 'very Catalonians had assisted him against the 'king of Spain, he did not give up his power of 'treating, till he had made the most honour-'able conditions for them: Not a single man 'amongst them was then hurt, either in his 'person or privileges; but now—poor un-'happy Catalonians, worthy of a better fate! 'Good and gracious God! To whom shall be 'attributed the loss of this brave people? 'Dreadful the doom of those who shall in thy 'sight be esteemed their destroyers!'

"I am at a loss with myself whether the gentleman marked out this paragraph for taking pity on the poor Catalonians, or for having spoken honourably of the French king. Common humanity will, I hope, be my excuse for the first, and I shall trust to that gentleman's known good nature to pardon me for the latter.

"But here the gentleman finds another inuendo, and has marked out a seditious blank: that is in reality, he is very angry with me, not for any thing I have said, but for something I have not said: or rather, because I have not written what he would have had me write. But if he finds both my silence and my words criminal, I must confess I do not know how to please him.

"Sir, I am afraid I have tired out the patience of this honourable house, in explaining these particulars, especially since I think they do sufficiently explain themselves to any impartial and unprejudiced reader. As for the remaining part of the Crisis which has been marked, I

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have examined it very carefully, and am very much perplexed to find out the passages in it which can have given any manner of offence. The greatest part of it consists of faithful quotations out of history, that may give us an abhorrence of popery, and of a popish successor, with several additional arguments drawn from the nature of the Roman Catholic religion, which are the same which have ever been made use of against it since the reformation. There are also several considerations from the present situation of affairs in Europe, that may contribute to strengthen our resolutions in the defence of the protestant succession as established by our laws. I have declared again and again in this part of the book as well as in several of the foregoing parts of it, that I would inculcate nothing but a due observance to the laws of the land, and a vigorous exertion of ourselves in the defence and preservation of them. Whatever warmth or spirit I have endeavoured to inspire my readers with, I have declared over and over, that it is for the maintenance of those points which are established by acts of parliament and the laws of their country. I must confess, sir, that I am very much at a loss to imagine why my accuser has laid his finger upon these passages which are so manifestly written in favour of our constitution, and in opposition to popery and the Pretender. He must have entertained a very mean opinion of a British House of Commons if he could think that such passages would bring their displeasure upon me: and I am verily persuaded that if gentlemen will be pleased to hear them with attention, they will be more apt to conceive an indignation against that person who has charged them as criminal, than against him who writ them. I shall only beg leave to take notice of one particular passage in them, because it is a full answer to an insinuation made against me by one who spoke in a former debate relating to this subject. That honourable member was pleased to say that I would insinuate the gentlemen of England were against the Protestant Succession in the House of Hanover. Were this my thought, Sir, I would give up that cause as desperate. I say, Sir, if the gentlemen of England were against it, all that he or any body else could do for it, would be ineffectual. But, Sir, to show you that I could not be so weak and unjust as to make this wicked suggestion, I beg leave only to read these following words—'As divided a people as we are, those who are for the 'House of Hanover are infinitely superior 'in number, wealth, courage, and all arts military and civil, to those in the contrary interest. Will that honourable person say, that the gentlemen of England do not fall within this description? Sir, my greatest hope this day is in the gentlemen of England, who are above being prejudiced by any false reports which are made of me, or by any sordid motives that might have an influence upon men of base and mercenary minds. But, Sir, I was going to read to you the remaining part of the Crisis, as I find it marked upon your table; but after having spoke thus much of it, I shall leave it to its own justification.*

'But to bring these several facts and circumstances home, we must observe that the 'person who seems to be the most favoured by 'the French king in the late treaties, is the duke 'of Savoy, who is made king of Sicily; and 'considering also the enlargement of his territories on the continent, by cession from the 'emperor, is become the most powerful prince 'in Italy. This prince put in his claim to the 'crown of England, in the right of his wife, a 'daughter of the late dutchess of Orleans, 'sister to our late king Charles the second, at 'the time of settling the crown of England 'on the House of Hanover. This prince, a 'man of as great address and capacity as any 'now living, is supposed to have entered into a 'secret and strict alliance with the House of 'Bourbon, and may therefore very well add to 'our fears of a popish successor. Things 'standing thus, and the House of Bourbon 'being in the actual possession of France and 'Spain, bidding fair for the conquest of Germany, or in peace and good understanding 'with it; what have Great Britain and Holland 'to hope from, but the mercy of France? 'What else have we to prevent the Pretender's 'being imposed on us, when France shall think 'fit; nay, in failure of one Pretender, he has 'in his quiver a succession of them; the 'dutchess of Savoy, or her sons, or the Dauphin 'her grandson. The last named cannot be 'many years from the throne of France.—In 'the next place how are we disposed at home 'for the reception of such an attempt? The 'passions of many, which were raised so high 'by an impudent suggestion of the church's 'danger, seem to have subsided into a lethargic unconcern for every thing else; harmless 'men are ashamed to own, how grossly they have 'been imposed upon; and instead of resenting 'the abuse, are willing to overlook it, with a 'certain reluctance against being moved at 'any thing else; least they should fall into 'the mortification of being misled a second 'time. Many who are above being blinded by 'popular noise and outcry, yet seem to think 'the warmth and zeal of a public spirit to be 'little better than a romantic heat of brain. 'Treasonable books lately dispersed amongst 'us, that have apparently struck at the Protestant Succession in the House of Hanover, 'have passed almost without observation from 'the generality of the people; subtile queries 'have been published about the birth of a 'certain person; which certain person 'every body knows to be intended for the 'Pretender; the Author of the Conduct of 'the Allies has dared to drop insinuations 'about altering the Succession; and a late 'treasonable book, on the subject of Heredi-

* "This is inserted because marked as criminal, but not defended, read, or farther spoken to by the accused member."

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'tary Right, has published the will of king 'Henry the eighth, which seems to be in- 'tended as a pattern for the like occasion. 'The conversion of the Pretender to our reli- 'gion, has been occasionally reported, and con- 'tradicted, according to the reception it met 'with among the soft fools, who give that gross 'story a hearing: The unhappy prince, whose 'son the Pretender calls himself, is a memora- 'ble instance, how much such conversions are 'to be depended upon. King James, when duke 'of York, for a long time professed himself a 'Protestant; and even not long before his ac- 'cession to the crown, several persons had ac- 'tions brought against them for saying he was 'a papist, and exorbitant damages given and 'recovered; in a word, from the practice of all 'papists, that have come to protestant thrones, 'upon pretence of embracing the reformed re- 'ligion, we have reason to believe they have 'dispensations from Rome to personate any 'thing, for the service of that church. A popish 'prince will never think himself obliged by the 'most solemn, even the coronation oath, to his 'Protestant subjects. All oaths are as insig- 'nificant and as soon forgotten, as the services 'done by such Protestant subjects.—King 'James, when duke of York, was preserved 'from the bill of exclusion, by the church of 'England, and particularly its bishops; when 'he came to the crown, the church was soon 'insulted and outraged by him, and her prelates 'committed to the Tower. Has not a neigh- 'bouring prince cruelly treated and banished 'his Protestant subjects who preserved the 'crown on his head? Did not the princess 'Mary promise the men of Suffolk, who joined 'with her against the lady Jane Grey, that she 'would make no alteration in the religion esta- 'blished by her brother king Edward the 6th? 'And yet as soon as she came to the crown, 'by the assistance even of Suffolk men, she 'filled all England, and in a particular manner 'that county, with the flames of martyrs. The 'cruelties of that reign were such, that multi- 'tudes of men, women and children were burnt 'for being zealous professors of the gospel of 'the Lord Jesus. In short, nothing less than 'this can be expected from a popish prince; 'both clergy and laity must share the same 'fate, all universally must submit to the fiery 'trial, or renounce their religion. Our bishops 'and clergy must all lose their spiritual prefer- 'ments, or submit to antichristian tyranny; 'And should they submit to every thing they 'must notwithstanding part from their wives 'and children, which, according to the church 'of Rome, are harlots and spurious. The 'laity, possessed of lands that formerly belong- 'ed to the Roman Catholic clergy, must resign 'their estates, and perhaps be made account- 'able for the profits received.—What can be 'more moving, than to reflect upon the bar- 'barous cruelties of papists beyond all exam- 'ple: And these not accidental, or the sudden 'effects of passion or provocation, but the set- 'tled result of their religion and their consci- 'ences. Above 100,000 men, women and 'children were murdered in the massacre of 'Ireland. How hot and terrible were the late 'persecutions of Protestants in France and 'Savoy? How frequent were the massacres of 'the Protestants through the whole kingdom of 'France when they were under the protection 'of the then laws of that country? How bar- 'barous, in a particular manner, was the mas- 'sacre of Paris, at the marriage of the king of 'Navarre, the French king's grandfather, a 'Protestant, with the sister of Charles the 9th, 'where the famous admiral of France, the great 'Coligny, the glorious asserter of the Protestant 'interest, was inhumanly murdered, and the 'body of that hero dragged naked about the 'streets, and this by the direction of the king 'himself, who had but just before most trea- 'cherously given him, from his own mouth, 'assurance of his protection? Ten thousand 'Protestants without distinction of quality, age 'or sex, were put to the sword at the same 'time; the king of Navarre himself narrowly 'escaped the disaster, his mother the queen of 'Navarre having not long before been poison- 'ed by the same faction. These are some in- 'stances of what must ever be expected. No 'obligations on our side, no humanity or natu- 'ral probity on theirs, are of any weight; 'their very religion forces them, upon pain of 'damnation, to forget and cancel the former, 'and to extinguish all remains of the latter. 'Good God! To what are they reserved, who 'have nothing to expect but what such a reli- 'gion can afford them? It cannot therefore be 'too often repeated. We should consider, 'over and over again, that should the chain of 'the Protestant Succession be once broke in 'upon, though the Pretender should be laid 'aside, the next of the blood royal is the 'duchess of Savoy, after her, her two sons; 'after them, the present dauphin of France; 'the next in succession to him, the queen of 'Spain, and her heirs; in default of them, the 'duke of Orleans, and his heirs, and most of 'the other princes of the blood of France, all 'papists, who may be enabled to demand pre- 'ference to the house of Hanover; so that be- 'sides the probability of this kingdom's being 'united to, and made a province of France, the 'train of popish princes is so great, that if one 'should not complete the utter extirpation of 'our religion, laws and liberties, the rest would 'certainly do it.—And here I cannot but add 'what is still of more importance, and ought to 'be the most prevalent of all arguments, that 'should there be the least hopes given to a 'Popish successor, the life of her majesty will 'certainly be in most imminent danger: for 'there will never be wanting bloody zealots of 'that persuasion, that will think it meritorious 'to take away her majesty's life, to hasten the 'accession of such a successor to her throne.— 'The only preservation against these terrors, 'are the laws before mentioned relating to the 'settlement of the imperial crown of Great 'Britain. Thanks be to heaven for that settle-

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'ment. The princess Sophia, and the heirs of 'her body, being Protestants, are the successors 'to her present majesty, upon her demise with-'out issue. The way is plain before our eyes, 'guarded on the right hand, and on the left, by 'all the sanctions of God and man, and by all the 'ties of law and conscience. Let those who act 'under the present settlement, and yet pretend 'to dispute for an absolute hereditary right, 'quiet themselves with the arguments they have 'borrowed from popery, and teach their own 'consciences the art of dispensing with the 'most solemn oath to this establishment whilst 'they think themselves bound only till oppor-'tunity shall serve to introduce another. God 'be thanked, neither we nor our cause, stand 'in need of such detestable prevarication. Our 'cause is our happiness. Our oaths are our 'judgment and inclination. Honour and affec-'tion call us, without the solemnity of an oath, to 'defend such an establishment; but with it we 'have every motive that can influence the mind 'of man. The terrors of God, added to the 'demands of our country, oblige and constrain 'us to let our hearts and our hands follow our 'wishes and our consciences; and out of re-'gard to our queen, our religion, our coun-'try, our liberty and our property, to main-'tain and assert the Protestant Succession in 'the illustrious House of Hanover. It is no 'time to talk with hints and inuendos, but 'openly and honestly to profess our sentiments 'before our enemies have compleated and put 'their designs in execution against us. As di-'vided a people as we are, those who are for 'the House of Hanover, are infinitely superior 'in number, wealth, courage, and all arts 'military and civil, to those in the contrary 'interest; besides which, we have the laws, I 'say the laws on our side. And those who by 'their practices, whatever their professions are, 'have discovered themselves enemies to the 'constitution, and friends to the Pretender, 'cannot make a step farther without being 'guilty of Treason, without standing in broad 'day-light, confessed criminals against their 'injured queen and country.—When the peo-'ple were in a ferment, when faction ran high, 'with irresistible prepossessions against every 'thing in its former channel, sanguine men 'might conceive hopes of leading them their 'own way. But the building erected upon that 'quicksand, the favour of the multitude, will 'sink, and be swallowed up by that treacherous 'ground on which the foundation was laid.—It 'is easy to project the subversion of a people 'when men see them unaccountably turned for 'their own destruction; but not so easy to 'effect that ruin, when they are come to 'themselves, and are sensibly and reasonably 'affected with thoughts for their preservation. 'We cannot help it, if so many thousands of 'our brave brethren, who laid down their 'lives against the power of France, have died 'in vain; but we may value our own lives dearly 'like honest men. Whatever may befall the 'glory and wealth of Great Britain, let us strug-'gle to the last drop of our blood for its religion 'and liberty. The banner under which we 'are to enter this conflict, whenever we are 'called to it, are the laws mentioned in this 'discourse; when we do not keep them in 'sight, we have no colours to fly to, no disci-'pline to preserve us, but are devoted, and have 'given ourselves up to slaughter and confusion. '—While we act manfully under them, we 'have given reason to expect the blessing and 'assistance of heaven on its own cause, which it 'has so manifestly acknowledged to be such 'by our many wonderful deliverances, when 'all human assistances and ordinary means of 'succour seemed irrevocably removed. We 'have no pretensions to the divine favour, 'but from our firm adherence to that settle-'ment, which he has, by so many wonders 'and blessings, after such great difficulties and 'misfortunes, bestowed upon us, and which 'we have in his sight, and with the invocation 'of his sacred name, after preparing ourselves 'at his altar, so frequently and solemnly sworn 'to defend. This plain, unperplexed, unalter-'able rule for our conduct, is visibly the work 'of his hand to a favoured people. Her majes-'ty's parliamentary title, and the Succession 'in the illustrious House of Hanover, is the 'Ark of God to Great Britain, and, like that 'of old, carries death to the profane hand that 'shall dare to touch it.

"I come now to the Close of The Englishman, where I find the following paragraph marked.

'But if God spares the good queen's life 'from such secret attempts as we have too 'much reason to fear, I doubt not but to see 'her judge rightly of such pretences. Though 'flattery carries witchcraft, yet when she shall 'see that these men, instead of supporting her 'government with their interest, cannot carry 'their elections but by representing all others 'as under her displeasure; when she shall see 'that they overbear the rights of corporations 'by the impertinent interposition of her power 'and name; when she shall see that those 'large bodies of men which the Examiner and 'others expose and exasperate, as men whom 'the queen hates, are so loth to be alienated 'from their hope in her, that their being actu-'ally cast from all preferments and places, 'hath not made them guilty of one seditious, 'or even undutiful action. When she shall 'see that those noisy men who embarrass the 'nation in every question, with calling out the 'Church, are but like the weather-cocks and 'clappers of the steeple; and that the sober, 'and laborious, and peaceable church-men, are 'its real support and pillars. When a little 'more time shall bring out things that begin to 'appear pretty plain already; then the queen 'will shew selfish men that would engross her 'favour, that she will be the mother of all her 'people; and as in spite of these men's stu-'died provocations, she hath their hearts and 'affections, so she will rule with equal justice 'towards all. If the nation will be so wise 'as to lay aside parties and party quarrels, she

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'will have no need to keep them up, but em-
'ploy all men according as the law makes
'them qualified, and their virtues and parts
'make them fit. But if several interests, and
'opinions, and humours shall still continue
'our parties (as the Examiner's violence and
'partiality hath done more to sharpen them,
'than to take off the edge) then she will let
'all see, that her crown is not to be sunk down
'to be a partizan of either side, so as to take
'these to be her friends and the other enemies;
'but that she is over both, and will use either
'in their turns, according as they are fittest for
'the service she hath for them at that time.
'And for those who shall dare to insult and ex-
'asperate the other as enemies, they are syco-
'phants instead of friends; and rob her of her
'best treasure, which is the love of her people.'

"I have heard some exceptions taken to the two or three lines of this paragraph where I say, 'If God spares the good queen's life from 'such secret attempts as we have too much 'reason to fear:' but as to this passage, I think is is sufficiently explained by a paragraph which I shall beg leave to read in the 35th page of The Crisis.

'And here I cannot but add what is still of 'more importance, and ought to be the most 'prevalent of all arguments, that should there 'be the least hopes given to a Popish Suc-'cessor, the life of her majesty will certainly 'be in most imminent danger: for there will 'never be wanting bloody zealots of that per-'suasion, that will think it meritorious to take 'away her life, to hasten the accession of such 'a successor to her throne.'

"The remaining part of this paragraph, is nothing else but the picture of an excellent princess, who notwithstanding the suggestions of unreasonable men, will still maintain in her the character of the best of sovereigns, by shewing herself the mother of all her people. If any inuendo can possibly be found in this paragraph, it can only affect those who would incline her royal heart to make an unjust distinction among her subjects.

"The next paragraph is in the 6th page of the quarto edition of The Englishman, in these words:

'I insist the more upon these Revolution 'principles, (as they are scornfully called now-'a-days) not only because there never was 'more need of them than at this time, but be-'cause the best and greatest part of the clergy '(especially those placed in eminent stations) 'have in all ages, so far as relates to our nation, 'and as far as my small reading informs me, 'been ready and hearty assertors of the privi-'leges and properties of the people; and why 'the whole body should not be now, is past my 'comprehension.'

"I suppose my accuser would again insinuate by this paragraph, for reasons best known to himself, that I speak disrespectfully of the clergy: but how he will be able to make this out, from an eulogium which is given to their past conduct, and a presumption that their future will be conformable to it, is past my comprehension. I suppose he will not deny, notwithstanding his new and inexpressible tenderness for the clergy of the Church of England, that there are among them, some nonjurors and asserters of hereditary right, in opposition to the laws of their country.

"The following paragraph in the 10th page, concerning Dunkirk, has already received its answer. Here it is.

'Toby is mistaken: at this day it is in a 'more dangerous condition as to England, than 'it was when I writ about the importance of 'it. For I insisted upon the demolition of 'the mole and harbour; and instead of that, 'they have, as exactly as if Mr. Tugghe's me-'morial had been the direction in this case, 'demolished the works, and left the harbour 'its sluices, and all its accesses that concern 'us, our safety and our trade, in good con-'dition. That is, they have destroyed the 'works in possession of the British garrison, 'to make that garrison useless, and put off 'the demolition of the harbour until time shall 'serve.'

"The three next paragraphs are taken out of page 17; and are only matters of fact, which may be proved out of several books and addresses, as well as from common discourse, to which I dare say every gentleman in this House has been a witness. I shall therefore appeal from any little sophistical cavils which may be made against them, to the honour and veracity of those gentlemen before whom I have now the happiness to vindicate myself. I will only read them, and appeal to every gentleman's own conscience for the truth of them.

'This is not all; for before this run upon 'the bank, a man was thought to argue very 'well that would say, that for the better con-'sumption and exportation of British manu-'factures, it was absolutely necessary to give 'both Spains to the friendly House of Bour-'bon: but lest a great monarch should be 'tempted by ambition, to use that trust for his 'own, rather than our interest, it would be ex-'pedient to keep a check upon him by dis-'missing all our allies. For our further secu-'rity within ourselves and to prevent all inva-'sions on liberty and property, one might very 'lately have said, the dignity and authority of 'parliaments could not be better strengthened, 'than by placing a despotic power in the so-'vereign.—We have so little public spirit 'amongst us, that these things passed like ma-'thematical truths, until each man grew afraid 'for his own pocket.—A man who was uneasy 'before this accident, for the public welfare; 'and has observed nothing since that puts us in 'a better condition; a man, I say, who from 'only hearing the news contradicted, that the 'Pretender was a coming, cannot infer that he 'may not still come, ought to be excused for 'writing as I have and do, to raise in his fel-'low-subjects a just concern for those civil and 'religious rights, which they at present enjoy 'above all other nations.'

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"The next paragraph is taken out of the 18th and 19th pages of the same book: and as it relates to Dunkirk has been already explained. Here it is.

'The queen's garrison is exposed by levelling the works to the mercy of the French: and the mole and harbour, which were first to be demolished, stand as they did, the terror of the British nation. Thus, Sir, as the interest of her majesty and her people are inseparable, I think I have behaved myself like a dutiful subject, in complaining of this open violation of her treaty in the most important article of it.

"I am now come to the last paragraph, in the 22d page of the same book, as follows.

'I wish, thirdly, That his electoral highness of Hanover would be so grateful as to signify to all the world, the perfect good understanding he has with the Court of England, in as plain terms as her majesty was pleased to declare she had with that House on her part. This last circumstance, dear Jack, would be very pleasing to all of us who are churchmen, because if the elector should be any way disobliged, I am confident her majesty has given no cause for it; and I cannot but attribute any misunderstanding, if such there should be, to the artifices of some new converts, who, for ought I know, may still be Presbyterians in their hearts.'

"I do not know whether I have been more troubled or surprized, to hear a gentleman affirm that these words, by an inuendo, contradict what her majesty had affirmed from the throne. This accusation may be put in such very hard words, as may incline those to be displeased with me, who attend more to the accusation itself, than to the grounds I have given for it. The gentleman who brought it against me, would artificially have stopped in the middle of the paragraph, had not he been put upon hearing the whole read out; wherein I positively assert that if the elector should be any way disobliged, I am confident her majesty has given no cause for it. I say, Sir, I have positively asserted in the words which immediately follow those which were objected to me, that if the Elector of Hanover should be any way disobliged, I am confident her majesty has given no occasion for it. And the reason why I was so positive in this assertion, is, because her majesty, as I before said, was pleased to declare in plain terms, that she had a perfect good understanding with the House of Hanover.

"And now, Sir, is there a fault, after this, in wishing that his electoral highness would be so grateful as to signify to all the world, the perfect good understanding he has with the Court of England. It is certain such a declaration as this would quiet the minds of all her majesty's subjects upon this important article; and why should it be criminal in me to wish for that, which would so manifestly redound to the peace of our country? Let every gentleman ask his own heart, whether he would not be glad that the elector made such a declaration as is here mentioned. And shall any man be esteemed an offender for wishing that which every man would be glad of? If there be any reflection in this passage, it is plain that it does not fall upon her majesty; and I question not but that in a point of this nature, gentlemen will be so just as to keep my plain and express words, and not to force a guilty interpretation upon a passage which has a natural interpretation that is innocent.

"I have now explained those several paragraphs which have been laid to my charge, and that in the shortest manner I was able; reserving to myself the liberty of producing any further reasons, for the defence of any particular passage, as the objections of my accusers and my own justification shall further require.

"I must declare, Sir, that upon the perusal of those paragraphs which have been marked against me, I have been more puzzled to know why I ought to defend them, than how they ought to be defended? And I dare appeal to any gentleman who is used to read pamphlets, whether he has seen any of either side for some years past, that have been written with more caution, or more thoroughly guarded against giving any occasion of just offence.

"Upon the whole matter, I do humbly conceive that no words which I have made use of can be censured as criminal, in the candid and natural interpretation of them, and can only be construed as such by distant implications and far-fetched inuendoes. I shall therefore beg leave to produce the authority of a very great man, with reference to accusations of this nature: since it is impossible for me to express myself with so much judgment and learning upon this subject, as I find it already done to my hand. The passages I mention, are in the Speech of the now Lord Chancellor of England, as I find them in doctor Sacheverell's Trial, in the following words:

'My Lords; if there be a double sense, in either of which these words are equally capable of being understood; if in one sense the Doctor's assertion be undeniably clear, but in the other some doubt might arise whether his words be criminal or not, the law of England is more merciful than to make any man a criminal, by construing his words against the natural import of them, in the worst sense. This is the great justice and clemency of our law in every man's case.' And a little lower.

'My Lords; If the manner of this solemn Prosecution has not altered the nature of things, I hope I may insist, without putting in a claim of right in behalf of all the factious and seditious people in the kingdom, to revile the government at pleasure, that by the happy constitution under which we live, a subject of England is not to be made criminal by a laboured construction of doubtful words; or, when that cannot serve, by departing from his words, and resorting to his meaning. Too many instances there were of

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'this nature, before the late happy Revolution; 'but that put an end to such arbitrary con-'structions.'

"After these excellent words of this great man, every thing I can say will appear very flat and low; for which reason I shall give you but very little further trouble. I have heard it said in this place, that no private man ought to take the liberty of expressing his thoughts as I have done, in matters relating to the administration. I do own, that no private man ought to take a liberty which is against the laws of the land. But, Sir, I presume that the liberty I have taken, is a legal liberty; and obnoxious to no penalty in any court of justice. If it had, I cannot believe that this extraordinary method would have been made use of, to distress me upon that account. And why should I here suffer for having done that, which perhaps in a future trial would not be judged criminal by the laws of the land? Why should I see persons, whose particular province it is to prosecute Seditious Writers in the courts of justice, employing their eloquence against me in this place? I think that I have not offended against any law in being: I think that I have taken no more liberty than what is consistent with the laws of the land: if I have, let me be tried by those laws. Is not the executive power sufficiently armed to inflict a proper punishment on all kinds of criminals? Why then should one part of the legislative power, take this executive power into its own hands? But, Sir, I throw myself upon the honour of this House, who are able, as well as obliged, to skreen any Commoner of England from the wrath of the most powerful man in it; and who will never sacrifice a member of their own body, to the resentments of any single minister.*"

Here I ended in the House. Most of what I said was put into my mouth by my friends, whose kindness and discretion prevented my adding to these forcible arguments many honest truths, which they thought would authorise a severity from the House to me, rather than secure me against their resentment. I cannot, as an indifferent man, dare to assert what I would have done, under the sanction of a member of parliament, speaking in parliament. The happiness of convincing some honest gentlemen who were against me, was not to be my fate: but, (barring that I made the best and most respectful obeisance I could to the Speaker) with a very aukward and unwilling air I withdrew; and the next news I heard was, that I was expelled.

It is justice due to human nature, to signify to an offender why he is punished. It is a justice to inform the meanest man in human society, why he is distinguished from the rest to his disadvantage; it is a Christian duty to give him the contrition he ought to have, and work in him a repentance from arguments towards his conviction. But the House, without letting me hear one reason, or shadow of an argument to prove me seditious, have peremptorily pronounced me so.

To hear a man speak, without being moved by what he says, or controverting it before Sentence, is only to give exercise to an hard heart; a ridiculous candour, that is an aggravation of an injury, by putting on the face of justice. I shall therefore, as briefly as I can, consider the matter yet further: for I am now as much concerned to show why this Sentence should not be a Reproach to me now it is passed, as I was before to speak against its being pronounced.

It may be objected, that I am sure to come off, when I who am the criminal, am also to be the judge. I may make the same objection against the determination of the House, they who were the judges, were also the accusers. In the first place I aver, that if I had, as indeed I have not, been guilty of raising groundless fears to the disadvantage of the ministry, it is less the part of the House of Commons, than any other body of men, to be inquisitors in favour of them. Their more graceful province had been to have encouraged what I had to say, if I had had objections, rather than suppressed me for offering at it. It had been well, after such a search, to have chastised or approved the man accused, according to his deserts. But my fate is so extraordinary, that I am punished by the House of Commons, (where freedom of speech is an essential privilege) for saying what was criminal no where else. Had what I have written been spoken in the House of Commons, no man will pretend to say it had been criminal: how then when it was innocent in another place, came it to be criminal by being produced there? I was safe when in circumstances that rendered me more accountable, and run into danger by being privileged.

But I flatter myself that I shall convince all my fellow subjects of my innocence from the

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"* Temple, 7 o'clock, March 18.

"Dear Prue; I have made my defence, and am ordered to withdraw. Addison was sent out after me, by my friends, to bid me not be seen till I heard what will be the censure. Nothing can happen to my condition in private the worse; and I have busied myself enough for the public." Steele to his Wife. See his Epistolary Correspondence by Nichols, vol. 1. p. 320. London, 1809.

Mr. Pope, in a letter to Congreve, March 19, 1713-14, says, "Yesterday Mr. Steele's affair was decided. I am sorry I can be of no other opinion than you, as to his whole carriage and writings of late. But certainly he has not only been punished by others, but suffered much even from his own party, in the point of character, nor (I believe) received any amends in that of interest, as yet; whatever may be his prospects in future. This gentleman, among a thousand others, is a great instance of the fate of all who are carried away by party spirit, of any side. I wish all violence may succeed as ill; but am really amazed that so much of that sour and pernicious quality should be joined with so much natural good humour as I think Mr. Steele is possessed of."

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following circumstances, allowed me to be of weight in all trials of this nature. From the general character of the offender, the motive to his offence, and the character of the persons who appear for him, opposed to those who are against him. There are some points to be allowed, which bear hard against the prisoner at the bar; and we must grant this by way of confessing and avoiding, and give it up, that the defendant has been as great a libertine as a confessor. We will suppose then a witness giving an account of him, who, if he spoke true, would say as follows:

'I have been long acquainted with Mr. 'Steele, who is accused as a malicious writer; 'and can give an account of him (from what he 'used to confess to us his private friends) what 'was the chief motive of his first appearing in 'print. Besides this, I have read every thing he 'has writ or published. He first became an au'thor when an ensign in the guards, a way of life 'exposed to much irregularity; and being tho'roughly convinced of many things, of which he 'often repented, and which he more often re'peated, he writ, for his own private use, a 'little book called "The Christian Hero," with 'a design principally to fix upon his own mind 'a strong impression of virtue and religion, in 'opposition to a stronger propensity towards 'unwarrantable pleasures. This secret admo'nition was too weak; he therefore printed the 'book with his name, in hopes that a standing 'testimony against himself, and the eyes of the 'world, (that is to say of his acquaintance) upon 'him in a new light, might curb his desires, and 'make him ashamed of understanding and seem'ing to feel what was virtuous, and living so 'quite contrary a life. This had no other good 'effect, but that from being thought no unde'lightful companion, he was soon reckoned a 'disagreeable fellow. One or two of his ac'quaintance thought fit to mis-use him, and try 'their valour upon him; and every body he 'knew measured the least levity in his words 'and actions, with the character of a Christian 'Hero. Thus he found himself slighted, in'stead of being encouraged, for his declarations 'as to religion; and it was now incumbent 'upon him to enliven his character, for which 'reason he writ the comedy called "The Fune'ral," in which (though full of incidents that 'move laughter) virtue and vice appear just as 'they ought to do. Nothing can make the 'town so fond of a man as a successful play, 'and this, with some particulars enlarged upon 'to his advantage, (for princes never hear good 'or evil in the manner others do) obtained him 'the notice of the king: and his name, to be 'provided for, was in the last table book ever 'worn by the glorious and immortal William 'the Third.—His next appearance as a Writer 'was in the quality of the lowest minister of 'state, to wit, in the office of Gazetteer. Where 'he worked faithfully according to order, with'out ever erring against the rule observed by all 'ministries, to keep that paper very innocent 'and very insipid.

'It is believed, it was to the reproaches he 'heard every Gazette day against the writer of 'it, that the defendant owes the fortitude of 'being remarkably negligent of what people 'say, which he does not deserve; except in so 'great cases as this now before us. His next 'productions were still plays, then the Tatler, 'then the Spectator, then the Guardian, then 'the Englishman. And now, though he has 'published, and scribbled so very much, he may 'defy any man to find one leaf in all these 'writings which is not, in point, a defence 'against this imputation, to find one leaf which 'does not mediately or immediately tend to the 'honour of the queen, or the service of the no'bility and gentry, or which is not particularly 'respectful to the Universities. Farther this 'witness sayeth not.'

When a man is accused, it is allowable not only to say as much as will refute his adversary, but if he can, he may assert things of himself praise worthy, which ought not to be called vanity in him, but justice against his opponent, by proving it is not only false what is said as to the fault laid to his charge, but also that he has exerted the contrary virtue.

You may observe that the Votes of the 18th of March imply, that the Writings were under consideration, as containing several paragraphs 'Tending to sedition, highly reflecting 'upon her majesty, and arraigning her majes'ty's administration and government.' There was not one argument used to support this heavy accusation against the member; but I suppose, upon consideration, that his reflecting upon the queen so directly, and arraigning her administration and government, was just the quite contrary to what he had done, the ill behaviour towards her majesty is in the resolution scattered among her subjects, and it was thought, since it was all equally true, it would be expedient to withdraw the offence, and for the amusement of the vulgar, to say more diffusively, that the Pamphlets were scandalous and seditious libels, containing 'Many expres'sions highly reflecting upon her majesty, and 'upon the nobility, gentry, clergy, and univer'sities of this kingdom, maliciously insinuating 'that the Protestant Succession is in danger 'under her majesty's administration, and tend'ing to alienate the affections of her majesty's 'good subjects, and to create jealousies and 'divisions among them.'

This is a very pleasant proceeding. The indictment before them was that, the accused member had reflected upon the queen; aye marry has he, say they, and upon the nobility and gentry, clergy and universities, and he did this also with a malicious intimation, that the Succession was in danger under her majesty's administration, and so forth. What need was there the man should be guilty of more than he was indicted for? Let this resolve be taken out of its formality, and it is just as if they had said he has been guilty of treason, and also of ill manners. But the huddle of offences was only to make a hue and cry,

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and the business was, that he should be marked; and as they well knew from the general corruption and meanness of the world, that if the crimes did not distinctly hurt every sort of people, they would not be zealous enough for the sake of the queen only, to vilify and distress the accused man: But the Succession, say they, he says is in danger 'under her ma-'jesty's administration:' this phrase is ambiguous, and evasive, it retains the offence against the queen, only to hide ministers. This is a very thin mask, for it is no help to them; if any man should, in a proper place, have any thing to object to their conduct; it would be no answer to urge against such an impeachment, that this was asserting ill things are done under her majesty's administration. All manner of crimes are committed under every prince's administration, but for that reason are those princes to be loaded with the guilt? Or would a man that should complain of those crimes, be supposed to intend treasonably, or to assert that they are owing to his prince's administration? Should a man be robbed, and when he asked for a warrant against the offender he be answered by the magistrate, it is arraigning her majesty's administration to report any such thing? If any epithets may be added to any persons and things, provided they add the words, 'under her majesty's administration,' approbation and blame in those that use them will be both alike, and 'safe, honourable,' or any other adjectives will lose their force, as well as the words, 'seditious and scandalous.' It is very possible the worst designs imaginable may be laid, under her majesty's administration, and her sacred majesty's honour no way impaired, as she, without disparagement to her wisdom it may be supposed, may not be conscious of all that passes. Therefore on this occasion, I repeat that the phrase 'under her 'majesty's administration,' is only a feint way of coming up to my indictment, and amusing the populace with a show of what is not in reality.

But to proceed with the Evidence on the side of the offender. Taking the words of the resolution as they lye: It would be a contradiction to all Mr. Steele's past Writings, to speak to the disadvantage of the nobility and gentry. The war that the Tatler brought upon himself, for stigmatizing and expelling sharpers out of their company, is a merit towards them, that will outweigh this allegation, though it comes whence it does. That gamesters, knaves and pickpockets are no longer the men of fashion, or mingled with so good an air among people of quality as formerly, is much owing to Mr. Steele; that a licentious treatment of a clergyman, as a clergyman, is less practised, either on the stage or in common conversation, is much owing to the contempt and ridicule on all such false and scandalous pretensions to wit, in the writings which the public has had from Mr. Steele: That an University education is reckoned a necessary qualification to an English gentleman, and the less accomplishments without those arts appear frivolous, though of great use with them, is more owing to Mr. Steele than to any other author, transcriber, or publisher, or under whatever class you rank him, that ever made use of pen and ink: But it seems the courtship in these resolutions was to be made with no less a resignation than that of all their sense and conscience.

All this is as clear and known as the sun at noon day. But it may be answered, that though as to his former writings this may be true, our author or publisher might grow vain and impertinent, and conceive new thoughts of himself, from borrowed excellencies of other men, his correspondents; and without fear or good manners run into the crimes of which he here stands accused. I shall therefore give an account of the principal thing laid to his charge, which is The Crisis, and the occasion of its being written.

Mr. Steele happened one day to make a visit to a gentleman of the Temple, who fell into discourse on public transactions; and complaining that dangerous insinuations were every day thrown among the people, ended his discourse, by saying, That he thought Mr. Steele, from the kind reception the world gave to what he published, might be more instrumental towards curing this evil, than any private man in England. After much solicitation, the gentleman observed, the evil seemed only to flow from mere inattention to the real obligations under which we lye towards the House of Hanover; if therefore, continued he, the laws to that purpose were reprinted together with a warm preface and a well urged peroration, it is not to be imagined what good effect it would have. Mr. Steele was immediately struck with the thought, and told him, that he hoped so good a design would repay his turning his thoughts wholly to it for a day or two, under promise of half what the sale of a work, which would be every body's reading, should produce. This was agreed; and there is hardly a sentiment or main position in the pamphlet, which that gentleman did not put together, as lawful and warrantable to be said, and deliver into Mr. Steele's hands to be published in the dress and manner he should think fit. But Mr. Steele was not content with writing The Crisis on this plan, and revising each paragraph with this gentleman only, but he also sent different copies to men of different talents and capacities; and with all their corrections, according to the authority of the corrector, Mr. Steele with his council at his elbow put the last hand to what he published under the name of The Crisis. Very able men passed and approved every word of it. Mr. Steele therefore thought it a most necessary, seasonable and worthy action to publish it. The care and caution with which it was writ appears sufficiently in that it much offended, and the author was not in the courts of justice brought to answer for the offence. But alas! he was to suffer for it, where of all places in the world he ought to have been encouraged and protected. But I will hasten to a better De-

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fence than all this, which is: That the gentlemen in the List at the beginning of this Narrative, gave their negative to the votes against the author. That the Map at the end of this book is the state of the case of Dunkirk, and explains that the true design of the French was only to make Dunkirk stronger. That there are these words in her majesty's Proclamation of the 1st of last month, concerning the Pretender at Barleduc, 'notwithstanding we have 'since insisted upon and renewed our instan-'ces in the most pressing manner for that pur-'pose our endeavours have not proved effec-'tual, but he still continues and is entertained 'there.' These circumstances of Dunkirk, and the stay of the Pretender at Barleduc, do strongly maintain the grounds all men ought to have for suspicion of being in imminent danger; to improve that suspicion has been the chief aim in all the political writings of this author: That it was sincere in him, will appear from this letter, wherein he resigned his office to my Lord Treasurer:

To the Right Hon. the Lord High Treasurer of Great-Britain.

'Bloomsbury-square, June 4, 1713.

'My Lord; I presume to give your lordship 'this trouble, to acquaint you, that having an 'ambition to serve in the ensuing parliament, I 'humbly desire your lordship will please to ac-'cept of my resignation of my office as commis-'sioner of the Stamp Revenue.—I should have 'done this sooner, but that I heard the com-'mission was passing without my name in it,* 'and I would not be guilty of the arrogance of 'resigning what I could not hold. But having 'heard this since contradicted, I am obliged to 'give it up, as with great humility I do by this 'present writing. Give me leave on this oc-'casion to say something as to my late conduct 'with relation to the late men in power, and to 'assure you whatever I have done, said or writ, 'has proceeded from no other motive but the 'love of what I think Truth. For merely as to 'my own affairs, I could not wish any man in 'the administration rather than yourself, who 'favour those that become your dependants 'with a greater liberality of heart than any 'man I have ever before observed. When 'I had the honour of a short conversation with 'you, you were pleased noly one to sig-'nify to me That I should remain in this 'office, but to add, that if I would name to 'you one of more value, which would be 'more commodious to me, you would favour 'me in it. I am going out of any particular 'dependance on your lordship, and will tell 'you with the freedom of an indifferent man, 'that it is impossible for any man who thinks 'and has any public spirit, not to tremble at 'seeing his country, in its present circum-'stances, in the hands of so daring a genius as 'yours. If incidents should arise that should 'place your own safety, and what ambitious 'men call greatness, in a balance against the 'general good, our all depends upon your 'choice under such a temptation. You have 'my hearty and fervent prayers to heaven, to 'avert all such dangers from you. I thank 'your lordship for the regard and distinction 'which you have at sundry times shewed me, 'and wish you, with your country's safety, all 'happiness and prosperity. Share, my lord, 'your good fortune with whom you will; while 'it lasts, you will want no friends; but if an 'adverse day happens to you, and I live to see 'it, you will find I think myself obliged to be 'your friend and advocate. This is talking in 'a strange dialect from a private man to the 'first of a nation; but to desire only a little, 'exalts a man's condition to a level with those 'who want a great deal. But I beg your lord-'ship's pardon, and am with great respect, my 'lord, &c. RICHARD STEELE.'

There is nothing here said like a malecontent, but like an honest man, who gave up every thing to the love of his country; where obsequiousness interfered with that, he was ready to force a temper, the most unhappily ductile, to go through all oppositions and discountenances in the way to his duty. It has been frequently said in the writings of this publisher, that all merit consists in the regulation of the will, and that is the only merit pretended to in this Apology. The wit, the eloquence, the learning in his writings, the town may as it pleases give to others, but the application of them all must be ascribed to this publisher; and I cannot but again and again repeat, that there is no man on whom a censure, with 'maliciously' in it, could fall, from whose character it could be more remote. The writings excepted against were sufficiently defended in the House, and nothing said in opposition to all that was urged in favour of the accused member. Therefore, as those accused writings were innocent, and all the drift of his other writings uncontestably virtuous, what can any gentleman say to himself, or his country, for joining in so unreasonable a vote against him? Let any gentleman consider, if the vote had been proposed to take away this man's life, with what horror would the whole assembly, except the messengers of the treasury, have rejected such a motion? But let any gentleman think on, and he will find, that this Resolution against Mr. Steele's property in the House, and his good name in the world, was only the same injustice, in a less degree. Why then would they suspend their good-nature and generosity, as Englishmen, the natural bent of their country, of running to the aid of the afflicted, to be made tools, and form a posse, to

* "We see here," says the writer of the Life of Steele, in the Biographia Britannica "that our author takes notice of the design to dismiss him, which indeed he had reason to have apprehended long before; for he had frequently attacked the earl of Oxford under borrowed names, and particularly in 'The Medley;' where the pleasant narrative of the Ball at Wapping, No. 25. was written by him."

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assist the messengers of the treasury against their fellow member?

No man could help plainly seeing, that Mr. Steele in these writings had gone as far as he could with any safety to his liberty or life, and that he got into the House of Commons, for no reason but to say more for the good of his deluded country: And must the House of Commons frustrate this design? There are many instances of punishments in the House for being too obsequious to the court against the people; but Mr. Steele is the first that fell there, for being audacious towards ministers, in behalf of his country.

But be all that was done against him forgotten, and the names of the actors in it, except the messengers themselves, never mentioned with this circumstance of their lives; but let those who were for an oppressed gentleman, their fellow-citizen, against as high an insolence as ever was offered to the legislature, be had in everlasting remembrance. Many of them have taken care of that for themselves, by illustrious actions; many of them, with the assistance of personal accomplishments, as well as youth, birth, and fortune, are blooming and growing in the pursuits of virtue and honour; the rest of them are men of the greatest fortunes in this realm, who are come to the evening of honourable days, and have nobler prospects in view, than to follow mercenaries with their Vote against an 'Impotent 'Patriot;' who attempted, from the irresistible force of the love he bears mankind, with poverty and disgrace staring in his face, to rouse his country out of a lethargy; a lethargy from which she has awaked only to behold her danger, and upon seeing it too great, has only sighed, folded her arms, and returned to her trance.*

* "The plan of The Crisis was laid and chiefly executed by Mr. Moore, of the Inner-Temple: and many hints of it came from archbishop Tenison, whose steward obtained very large subscriptions for it." Memoirs of Steele, 1731. p. 14.

"Perhaps," says Dr. Somerville, "there never was in the annals of political literature a book more universally read, or so much the subject of conversation, as The Crisis, a work believed by the public to be written by sir Richard Steele. To prove that sir Richard was not the author of that celebrated performance, the following Letter will not only evince how the world was at that time deceived, but discover the real author, and his motives for a temporary concealment of his name and profession. The Letter is addressed to the late lord Macclesfield, then Lord Chancellor:"

'My Lord; June 6, 1716.

'I am partly encouraged by Mr. Solicitor-'General, but chiefly by your lordship's known 'candour and humanity, humbly to lay my case 'before you, and to beg your lordship's pa-'tronage.—When the memorial of the Sieur 'Tugghe, relative to Dunkirk, was given gratis 'about the streets, one of them chanced to be 'put into my hands; it raised in me, on the 'first reading, a just indignation, when I found 'how my country was intended to be imposed 'upon in the only article of a vile Peace, that 'seemed to carry any value with it, and there-'upon sent to Mr. Steele immediately, who 'then wrote a paper called The Guardian, and 'shewing him the memorial, I sat down and 'wrote with him the Guardian of Dunkirk. 'After that, I wrote several of his papers, 'called the Englishman, relating to our con-'stitution, which I thought openly invaded by 'the then ministry; and when I found the Suc-'cession impudently attacked, not only by 'pamphlets and papers that came out weekly, 'but by a book in folio, of Hereditary Right, 'stuffed with quotations out of the Harleian 'library, and pompously published in the Ga-'zette; I then thought it an honest office to 'attempt something that might prove an anti-'dote to that intended poison.—After some 'thoughts spent thereon, I observed, that the 'mischiefs threatened, proceeded as well from 'an inattention in the common people to the 'obligations they lay under, both civil and re-'ligious, to the most illustrious House of Han-'over, as from a forgetfulness of the dangers 'our religion, laws and liberties were exposed 'to, in the reign of the late king James; and 'thereupon concluded, that to print the laws 'relating to the abdication of that king, and 'the subsequent settlements of the crown, with 'a proper introduction, and a well urged and 'forcible conclusion in so small a volume as to 'put it in the power of the meanest subject to 'be master of, would be the most effectual 'method to undeceive the common people.—'This gave occasion to my writing the Crisis, 'which appeared under the name of Mr. Steele; 'and had matters been carried to extremities 'against that gentleman, on account of that 'book, my fate would certainly have been more 'severe than his, for my profession as a lawyer 'would have been esteemed an aggravation of 'my crime by the then ministry, and conse-'quently of my punishment.—On his majesty's 'accession to the throne, I flattered myself 'with the hopes of having some small ray of 'his royal favour shine upon me; and there-'fore addressed myself to the late lord Halifax, 'desiring his lordship to do me the honour of 'presenting me to the king; who, with a ge-'nerous frankness, was pleased to say, he would 'first provide for me, and then present me to 'his majesty: and but two days before the ill-'ness of which he died, his lordship assured 'me he would, in a week's time, give me what 'would be pleasing to me—but his death pre-'vented it.—I then addressed count Bothmar, 'who was pleased to do me the honour to re-

Mr. Quin committed for offering a Bribe to the Speaker.] March 12. The Speaker acquainted the House, That the day before he received a Letter signed by one John Quin,

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with a Petition enclosed, drawn in a form to be presented to the House, in which letter was contained a scandalous offer of a sum of money to be paid to him, upon passing such an act of parliament as was desired in the said Petition: Which Letter being read, the said John Quin, was ordered to be sent for immediately into the custody of the serjeant at arms, and was afterwards examined touching the said Letter.

March 13. The said Mr. Quin, an Irish gentleman, put up a Petition to the House. "Acknowledging his offence, as being committed by him through inadvertency and ignorance, being a stranger, and unacquainted with the method of obtaining acts of parliament, and begging pardon of Mr. Speaker and the House, for his offence; and praying to be discharged out of custody." Which being read, it was ordered, That the said Quin be brought upon Monday morning next to the bar of the House; where having upon his knees, received a reprimand from the Speaker, he was ordered out of custody paying his fees.

Debate in the Lords on the State of the Nation.] March 17. The Lords taking into consideration the State of the Nation, the earls of Wharton, Nottingham, and Sunderland, the lords Cowper, Halifax, and some others, represented the danger that threatened the Protestant Succession by reason of the Pretender's not being yet removed from Lorrain, and the ill condition the affairs of Europe were left in by the late treaties of Peace, and moved, that Addresses be presented to the queen, 1. "For an Account of what steps had been taken for removing the Pretender from the dominions of the duke of Lorrain, and what answers had been given by that duke. 2. An Account of the negociations of Peace: what measures had been taken to render the Peace universal; and what obstructions her majesty had met with. 3. An Account of what instances had been made for restoring to the Catalans their ancient privileges, and all letters relating thereto. 4. An Account of the monies granted by parliament, since the year 1710, to carry on the war in Spain and Portugal." These Addresses were ordered to be presented to the queen without any opposition.

But, in the mean time, the Lord Treasurer moved for leave to bring in a Bill "for the further security of the Protestant Succession, by making it high-treason to bring any foreign troops into the kingdom," which greatly surprised many peers.

The Earl of *Nottingham*, who immediately perceiving the dangerous consequence of that motion, represented, "That such a bill might be turned against the very guarantees of the Protestant Succession, and so weaken that happy settlement, for the security of which the bill was pretended to be designed."

The Lord *Bolingbroke* replied, "He doubted not, but the noble peer, who made the motion, meant only such foreign troops, as might be brought into the kingdom by the Pretender or his adherents. The Lord Treasurer having declared this to be the meaning, it was answered, "In that case such a bill was altogether unnecessary, since such troops were either open enemies, if foreigners, or traitors and rebels, if natives."

The Earl of *Anglesea* put an end to the debate, with saying, "That the lord who made the motion, was not acquainted with the methods of proceeding in that House; for every peer has the privilege of bringing in what bill he thinks fit; that the Lord-Treasurer's asking leave for it, was but a compliment to the House; and therefore, when he had brought in the bill it would be then a proper time to consider of it." So the motion was dropped. The same day a noble lord reflected on the

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'commend me to my lord Townshend and Mr. 'Walpole, who have both assured me of their 'favour; and Mr. Walpole several months ago 'told me I should be a commissioner for the 'forfeited estates, and has often been pleased to 'repeat the same thing to me, till lately, when 'he told me, they would be all members of 'the House of Commons. I thereupon desired 'that I might be named by him for Register, 'and he has been so good as to promise me his 'interest in it.—If it is not too great presumption, I would humbly beg your lordship's joint 'interest with that of Mr. Solicitor-General in 'my favour; a kind word from your lordship 'to Mr. Walpole, and my lord Townshend 'cannot fail of success.—My business, for several years, has been wholly conveyancing in 'my chambers; and though it has in a manner rendered me unfit for the bar, I presume 'it will the better qualify me for that service, 'matters relating to the titles and estates 'seeming to be the chief business of that commission.—If I have no active merit in writing 'the above papers in defence of the Protestant 'Succession in the most illustrious House of 'Hanover, I assure your lordship I have a 'great deal of passive: for my being known to 'have written them, has turned very much to 'my detriment from the malice of the Tories, 'not only in the business of my profession, but 'in my other private affairs; upon which head 'I have taken some freedom with Mr. Solicitor-'General; and I hope your lordship, who appeared with the greatest fortitude at the head 'of those who were assertors of the Succession 'in the most illustrious House of Hanover at a 'time of danger in the late reign, will think it 'hard for me, though a subaltern in the same 'glorious cause, to be a sufferer on that account in this.—I humbly beg a thousand pardons for this presumption; and that I may 'have the honour to be, my lord, &c.

'W. MOORE.'

N. B. Any person doubtful of the authenticity of the above Letter, or desirous of seeing the original, may be satisfied by applying to the printers of this Magazine.

The above Letter and the Note were published in the St. James's Magazine, in March 1774.

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bishop of Sarum's preface to his Pastoral Care; but, that prelate offering to vindicate himself, no farther notice was taken of it.

Two days after, in a further debate on the State of the Nation, several Lords spoke again in favour of the Catalans, and insisted, "That the House ought strictly to examine how that poor people came to be abandoned, after they had been solicited and drawn in to declare for the emperor."

The Earl of *Anglesea*, seeing the ministry thus attacked, endeavoured to ward off the blow, by saying, "That, for his own part, he was one of the first that appeared against the late ministers, because he was fully convinced of their mal-administration, corruption, avarice, and unbounded ambition. That he would, in like manner, be one of the first that should attack the present ministers, if he thought them guilty of the same faults. But, as he had observed, it was merely out of spleen and envy, that some persons were for inquiring into the conduct of patriots, who had given signal proofs of their zeal for the public good, he was of opinion, that, they ought to examine into the conduct both of the late and present ministers, that so, by comparing one with the other, they might see, which had committed less errors."

However, the Whig Lords pursued their point, and in particular took notice of the danger, both the queen's person and the Protestant Succession were in, from the great number of out-lawed jacobites, who were permitted to come over from beyond sea; and complained of the favour shewn to the Pretender's friends, in granting Noli Prosequi's to persons (meaning Daniel de Foe among others) who were under prosecution for writing against the Protestant Succession. They animadverted upon the Debts of the Navy being much increased, though nothing had been done at sea for two or three years. The court-party having nothing to say to these particulars, it was moved and resolved to address the queen, that she would order the proper officers to lay before the House. 1. "An Account of the Debts and State of the Navy. 2. An Account of Noli Prosequi's granted since her accession to the throne. And 3dly, a List of Persons outlawed, attainted, or that had borne arms in the service of her majesty's, or the late king's enemies, who had got licences to return into Great Britain, or other her majesty's dominions, since the year 1688."

After this, upon a motion for adjourning, the Whig lords proposed to adjourn only to the Monday following. But, the ministry being highly concerned to put a stop to such enquiries,

The *Lord Treasurer* represented, "That the solemnity of the festival of Easter approaching, the next week ought, according to the primitive institution, and the constant practice of the church of England, to be set apart for works of piety;" and therefore moved to adjourn to the 31st of March. The Treasurer being seconded by the lord Trevor,

The Earl of *Wharton* said, "God forbid he should oppose that noble lord, who had made so pious and religious a motion; but that he appealed to that venerable bench (pointing to the bishops) whether humanity and charity did not require it at their hands, not to lose one moment of time, in addressing her majesty in behalf of the distressed Catalans, who were reduced to such an extremity, that the least delay in procuring them relief, might prove their ruin for ever." Then it was resolved, without opposition, to present the Address; and the earl of Oxford's motion for adjourning to the 31st of March was carried in the affirmative.

It is observable, the Commons having, the day before, made an order for clearing the House of all strangers, not excepting the peers, it was moved in the Lords' House to make the like order, without excepting the Commons: but this was opposed by the duke of Argyle, who said, "It was for the honour of that august assembly to shew, that they were better bred, and had more complaisance than the Commons."

Debate in the Lords concerning the Catalans.] The Parliament met on the 31st of March. The chief debates were in the House of Lords, concerning the Catalans, the Protestant Succession, removal of the Pretender out of Lorrain, and the late Treaties. The papers, which had been addressed for, being laid before the House, those relating to the Catalans were read on the 2nd of April. Then the earls of Wharton and Sunderland, the lords Halifax, Cowper, and others, represented, "That, the crown of Great Britain having drawn in the Catalans to declare for the house of Austria, and engaged to support them, those engagements ought to have been made good." To this

The Lord *Bolingbroke* answered, "That the queen had used all her endeavours to procure to the Catalans the enjoyment of their ancient liberties and privileges; but that, after all, the engagements she was entered into, subsisted no longer than while king Charles was in Spain; but that prince being advanced to the imperial dignity, and having himself abandoned the Catalans, she could do no more than interpose her good offices in their behalf, which she had not been wanting to do." To this it was replied; "That God Almighty had put more effectual means into her majesty's hands." After some other speeches,

The Lord *Cowper* moved for an Address to the queen, importing, "That, her endeavours for preserving to the Catalans the full enjoyment of their ancient liberties, having proved ineffectual, their lordships made it their humble request, that she would continue her interposition in the most pressing manner in their behalf." None of the peers opposed this motion; only

The *Lord Chancellor*, in order to justify all that had been done by the ministry, said, "This Address would be more grateful to her majesty, if the word 'ineffectual' was left out, and if they should only thankfully acknowledge her majesty's endeavours in favour of the Catalans," which was agreed to.

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Address to the Queen thereon.] The next day, the Address was read and agreed to, as follows:

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, having taken into consideration, the several papers your majesty was most graciously pleased to order to be laid before this House, in pursuance of our humble Address, of the 17th day of March last, that your majesty would be pleased to order an account to be laid before this House, of what endeavours had been used, that the Catalans might have the full enjoyment of their ancient liberties and privileges; did with the utmost thankfulness to your majesty, and satisfaction to ourselves, observe the repeated and earnest endeavours of your majesty, for preserving to the Catalans the full enjoyment of all their just and ancient liberties; and that although it appears by the Treaty of Peace with Spain, that the king of Spain has hitherto not been induced to agree with your majesty's interposition in their behalf, but insists that they shall come under the condition of his subjects of Castile, there is yet room for your majesty's further interposition, for securing to that people those liberties, which cannot but be very valuable to them: We do therefore make it our most humble and earnest request to your majesty, that your majesty would be graciously pleased to continue your interposition in the most pressing manner, that the Catalans may have the full enjoyment of their just and ancient privileges continued to them."

The Queen's Answer.] Her majesty's Answer was as follows:

"My Lords; I heartily thank you for this Address, and the satisfaction you express in the endeavours I have used for securing the Catalans their just liberties.—At the time I concluded my peace with Spain, I resolved to continue my interposition, upon every proper occasion, for obtaining those liberties, and to prevent, if possible, the misfortunes, to which that people are exposed by the conduct of those more nearly concerned to help them."

Debate in the Lords, on the State of the Nation.] April 5. The Lords taking into consideration the State of the Nation, several speeches were made in relation to the dangers to which all Europe in general was left exposed by the late Treaties of Peace, and which, in particular, threatened the Protestant Succession. To this purpose the Whig lords mentioned the countenance and favour which were publicly shewn by those in power to the friends of the Pretender; and his continuing in Lorrain.*

The Earl of *Sunderland* added, "That, notwithstanding the earnest application made last session by both houses to her majesty, to use her utmost endeavours to get him removed from thence, yet he was assured by baron Fostner, the duke of Lorrain's minister, some weeks before his departure, that, to his certain knowledge, no instances had yet been made to his master for that purpose."

The Lord *Bolingbroke* said, "He wondered baron Fostner should make such a declaration, since he himself had made those instances to the baron in the queen's name."

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* Some time before the parliament met, the following Letter, said to be written by the duke of Lorrain, was handed about, first in manuscript and afterwards in print:

'Madam, We could not be more surprized 'at the addresses of the British parliament last 'summer, than with the late remonstrances of 'your majesty's minister at Utrecht, in relation 'to the removal of the chevalier de St. George 'from the dominions of Lorrain. Before 'we would absolutely comply with the request 'of the most christian king in that affair, the 'profound respect we have for your quiet, made 'us apprehensive of giving the least uneasiness 'to your majesty. But when we were assured, 'on the contrary, that this expedient would be 'highly agreeable to all sides, as the only means 'to remove one of the chief obstacles to the 'general pence of Europe, so much wanted and 'desired: proud of so great an honour we 'could no longer refrain from opening our 'arms, to receive a prince, the most accomplished, the most virtuous, and most amiable 'of human race, who only wants to be seen 'to be admired, and known to be almost 'adored: whose magnanimity, in his sufferings, 'renders him worthy his high birth; besides 'his other great and commendable qualities, 'which confess the royal blood that flows in his 'veins.—We therefore hope your majesty, and 'the British nation, will not take in ill part, that 'we cannot comply with a demand so inconsistent with our own honour, and the laws of 'hospitality; that, after our protection once 'given, we should voluntarily abandon, to the 'rage of his enemies, an innocent, distressed 'prince, who knows no crime, but being born 'the last heir male to that illustrious family, 'which, for several ages, has given so many 'great monarchs to the world, amongst the rest 'your majesty, of whose heroic virtues he is a 'happy imitator; and whose conspicuous and 'great actions have reflected as much lustre, as 'you have received from your noble and truly 'royal progenitors. That God Almighty would 'take your majesty into his holy protection, 'is the ardent wish of, madam, your majesty's, '&c.'

"The Whigs and the Jacobites were equally industrious in dispersing copies of the duke's Letter, which contained ample testimonies of the virtues and amiable character of the Chevalier. The former believed it to be well calculated for convincing the nation of the insincerity of the court, and the danger of the Protestant Succession; the latter hoped that it would promote an esteem for the character of the successor whom they favoured." History of the 1st and 2nd Session of the Last Parliament, p. 32.

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The Lord *Halifax* confirmed what the earl of Sunderland had advanced, saying 'baron Fostner had told him as much but four days before; so that the lord Bolinbroke must be mistaken, at least, in point of chronology.' The earl of Wharton having urged the dangers, which threatened the nation, and the Protestant Succession from the mal-administration of affairs, a question was proposed, 'Whether the Protestant Succession was in danger under the present administration?' The court lords, who had a mind to screen the ministry under the queen's name, insisted, that the last words of the question should be, 'under her majesty's administration?' The Whig lords alledged, That the queen ought not to be mentioned in a question, that did not at all concern her majesty: for, by our constitution, the sovereign can do no wrong; and, if any thing be done amiss, the ministers alone are accountable for it.' But it was urged, 'That the queen having, in her speech from the throne, taken notice of the insinuations, that the Protestant Succession was in danger under her government; the question ought to be taken in her majesty's expressions about the same subject.'

The Protestant Succession voted out of Danger.] This being agreed to, the question was warmly debated from two in the afternoon, till 9 o'clock in the evening, when the Protestant Succession was voted out of danger by a majority of 12 voices only, 76 against 64. The most remarkable circumstance of this debate was, that the archbishop of York and the earl of Anglesea spoke and voted with the Whig lords, which added great strength to that side; the archbishop drawing after him the whole bench of bishops, three courtiers only excepted; and the other being followed by the earls of Abingdon and Jersey, the lords Ashburnham and Carteret, and some other temporal peers, who, like the lord Anglesea, had, upon most occasions, voted for the court lords; so that the victory, now gained, was owing to the Scots peers, or to the late creation. And it was the general opinion, that this seeming advantage was in reality a kind of defeat.

The Earl of *Anglesea's* speech upon this occasion, was much taken notice of: He said, among other things, That, when he came into the House, he thought indeed the Protestant Succession to be still in danger on the part of France, whose interest it was to restore the Pretender: But that, after he had heard what so many noble members of that august assembly, persons of undoubted honour and probity, had alledged against the ministers, and no answer offered to confute it, either by the ministers themselves, or their friends, he could not but believe the Succession to be in danger under such an administration. He afterwards endeavoured to clear himself, as to the share he had in some late transactions: "I own (said he) I gave my assent to the cessation of arms, for which I take shame to myself, and ask God, my country, and my conscience pardon. But, however, this fault I did not commit till that noble lord (turning towards the Lord-Treasurer) had assured the council, that the Peace would be glorious and advantageous both to her majesty and her allies. Adding, that, as the honour of his sovereign, and the good of his country, were the rule of his actions, so he had no respect of persons; and if he found himself imposed upon, he durst pursue an evil minister, from the queen's closet to the Tower, and from the Tower to the scaffold.'

The *Lord Treasurer*, against whom this was levelled, said, "That the Peace was as glorious and advantageous, as could be expected, considering the necessity of affairs, and the contradiction the queen's ministers had met with, both at home and abroad." Several lords replied, That no ministers ever had it in their power to make so honourable and advantageous a peace, as the queen's ministers had.

The Duke of *Argyle* in particular added, "That he had lately crossed the kingdom of France, both in going to, and returning from Minorca. That it was indeed one of the finest countries in the universe, but that there were marks of a general desolation in all the places through which he passed. That he had rid 40 miles together without meeting a man fit to carry arms: that the rest of the people were in the utmost misery and want; and therefore he did not apprehend what necessity there was to conclude a Peace so precipitately with a prince whose dominions were so exhausted of men, money and provisions." As to the question now under debate he said, "he firmly believed the succession in the electoral House of Hanover to be in danger from the present ministers, whom he durst charge with mal-administration, both within those walls, and without: that he knew and offered to prove, that the Lord-Treasurer had yearly remitted four thousand pounds to the highland clans of Scotland, who were known to be intirely devoted to the Pretender, in order to keep them under discipline, and ready for any attempt: that, on the other hand the new-modelling of the army, by disbanding some regiments out of their turn, and by removing from their employments a vast numbers of officers merely upon account of their known affection to the House of Hanover, were clear indications of the designs in hand: that it was a disgrace to the nation, to see men, who had never looked an enemy in the face, advanced to the posts of several brave officers, who, after they had often exposed their lives for their country, were now starving in prison for debt, for want of their pay."

The *Lord Treasurer*, laying his hand upon his breast, said, "He had, on so many occasions given such signal proofs of his affection to the Protestant Succession, that he was sure no member of that august assembly did call it in question. That he owned he had remitted, for two or three years past, 3,800*l.* to the highland clans; but that he hoped the House would give him an opportunity to clear his conduct as to that point. And as for the reformed officers, he had given orders they should forthwith be paid.'

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The Lord *Ashburnham*, who had lately been advanced to the command of a troop of life guards, thinking himself reflected on by some expressions which had dropped from the duke of Argyle, took that occasion to say, "That the queen had no better nor a more loyal subject than himself; but that at the same time he was ready to spill every drop of his blood, and spend all his fortune for the security of the Protestant Succession."

Debate about the Removal of the Pretender out of Lorrain.] Though, after some other speeches, the Protestant Succession was voted out of danger as the court-party desired, yet,

The Lord *Halifax*, in order to put their professions of affection to the Protestant Successor to the test, moved, 'That an Address be presented to the queen, that she would renew her instances for the speedy removing the Pretender out of Lorrain; and that she would, in conjunction with the States-General, enter into the guaranty of the Protestant Succession in the House of Hanover; and also with such other princes, as she should think proper."

The Earl of *Wharton* moved that, in the Address, "Her majesty might be desired to issue out a proclamation, promising a reward to any person who should apprehend the Pretender, dead or alive:"*

The Duke of *Bolton*, also moved, "That the reward might be suitable to the importance of that service." Nothing was said in opposition to these motions; but, it being late, some members cried, 'Adjourn, adjourn.' But the other side calling for the question, it was unanimously resolved, that the Address should be presented.

Before this debate came on, the Lord North and Grey moved, that all the strangers that were in the House should withdraw; upon which the earl of Wharton desired that they might be permitted to stay; and he was seconded by the duke of Argyle. But, the lord who made the motion, insisting upon it, all strangers were obliged to withdraw, except baron Schutz, envoy from Hanover, whose standing behind the throne among the peers sons was connived at.

April 8. When the Address against the Pretender was reported by the committee appointed to draw it,

The Lord *North and Grey* made a long speech, "Wherein he endeavoured to shew the barbarity of setting a reward upon any body's head; which, he said, was an encouraging of murder and assassination; and how repugnant such a practice was to christianity, the law of nature, and the laws of all civilized nations." To which purpose he quoted some passages out of Grotius, Puffendorf, and other civilians. He represented in particular, "how inconsistent such a proceeding was with the honour and dignity of so august an assembly in a nation and government, famed for lenity and clemency;" and in conclusion said, "No man either had more respect and affection for the illustrious house of Hanover, or would do more to serve them, than himself: but that they must excuse him, if he would not venture damnation for them."

The Lord *Trevor*, said, "What that noble peer had spoke, was sufficient to shew, how inconsistent such a proceeding was with christianity, and the civil law; and therefore he would confine himself to our own laws; and, if he knew or understood any thing of these, he was confident, they were no less opposite to such proceedings than the civil law. He knew, he did not speak there as a lawyer or judge, but as a peer. But he was so fully satisfied of our law discountenancing all such proceedings, that, if ever any such case should come before him as a judge, he would think himself bound in justice, honour, and conscience to condemn such an action as murder; and therefore he hoped, the supreme court of judicature in England, and the most august tribunal in the universe, would not make a precedent for encouraging assassination;" concluding that it was sufficient, and therefore he moved, "1. That the reward should be for apprehending and bringing the Pretender to justice in case he should land, or attempt to land either in Great Britain or Ireland. 2. That her majesty issue her royal proclamation whenever, in her great wisdom, she should judge it necessary." The lords Cowper and Halifax said, "That such a proceeding, as repugnant as it might be to the precepts of christianity, was yet warranted by the practice of the old Romans, of the most civilized nations in Europe, and of our nation. For, without recurring to remoter instances, we had the example of king James the 2nd, who set a price on the head of his own nephew, the duke of Monmouth." But these two lords were but weakly supported by their own party; and the earl of Anglesea and lords Ashburnham, Carteret, and Orrery, who, three days before, had left the court party, having approved the lord Trevor's motion, and most of the bishops who were against such an Address, being absent from the House, these mitigations were, upon a division, carried by a majority of ten voices.

Votes against Persons outlawed, Papists and

* "Upon the motion for addressing her majesty to offer a premium for apprehending the Pretender, it was proposed by the earl of Wharton, to add the words, "whether dead or alive;" and this barbarous idea was espoused by some of the most respectable names in the Whig List, but, for the honour of the legislature, rejected by a great majority with that indignation which it justly merited. Attending to these circumstances, we are not surprized that the queen deviated from her ordinary respect to official ceremony, and answered the lords in terms expressive of her uneasiness and displeasure. She said, "that she did not see any occasion for such a proclamation; that it would strengthen the Succession of the House of Hanover and her own government, if an end was put to these groundless fears." Somerville.

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others.] The same day, upon a motion made by the lord Halifax, the Lords resolved to present another Address to the queen, "That she would issue out a proclamation against all Jesuits, popish priests, and bishops; as also against all such, as bore arms against the late king William and queen Mary or her present majesty." Upon this occasion, some severe reflections were made against those persons, who, being outlawed for adhering to the late king James and the Pretender, had the assurance, and were encouraged, not only to come over but even to appear here with a public character. The earl of Anglesea said, on this occasion, "That for his own part, he was against widening our domestic divisions, by keeping up odious distinctions; and therefore, if they, who were born her majesty's subjects, and had been in arms against their country, were sensible of their fault, and inclined to return to their bounden allegiance, they ought in his opinion to open the door for them to come in." But the House had other thoughts of the matter, and the next day resolved, "1. That no person, not included in the articles of Limerick, and who had borne arms in France or Spain, should be capable of any employment civil or military. 2. That no person, who is a natural born subject of her majesty, should be capable of sustaining the character of public minister from any foreign potentate." These Resolutions were made with a view to sir Patrick Lawless, who, having been the Pretender's envoy at the court of Madrid, had come over with a credential letter from king Philip. But, upon the noise, which his being here made in both Houses of parliament, he thought fit to go to Holland.

The Lord Treasurer's Conduct in remitting Money to the Highlanders approved.] As a reflection had been made against the Treasurer, for remitting yearly about 4,000*l.* to the clans of Scotland, as if that sum were designed to keep in heart and discipline the Pretender's friends, the lord Townshend moved for taking that affair into consideration. The duke of Argyle represented, "That, the Scots highlanders being, for the most part, either rank papists, or declared Jacobites, the giving them pensions was, in effect, keeping up popish seminaries, and fomenting rebellion." In answer to this, the Treasurer alledged, "That in this particular he had but followed the example of the late king William, who, after he had reduced the highlanders, thought fit to allow yearly pensions to the heads of the clans, in order to keep them quiet; and, if the present ministry could be charged with any mismanagement on that article, it was only for retrenching part of that hush money." Nothing being alleged against this apology, the lord North and Grey made a motion for returning the Treasurer the thanks of the House for his good services. But the lord Bolingbroke, to put it off, said, "He was persuaded the Treasurer was contented with the testimony of his own conscience, and desired no further satisfaction, than to have his conduct approved by that august assembly." Which was accordingly done. Upon this unsuccessful attempt upon the Treasurer, the lord North and Grey said, with an air of triumph, "That, having by this time, removed all fears and jealousies about Popery and the Pretender, he hoped the enemies of the ministry would now speedily produce all the objections they had against their conduct:" and moved, that a day might be appointed for taking into consideration the State of the Nation, with regard to the Treaties of Peace and Commerce. He was seconded by the earl of Clarendon; and then the House adjourned to the 13th, but, the day before, the lord chancellor, attended only by the Whig lords, presented their Address against the Pretender.

The Lords' Address against the Pretender.] The Address was as follows:

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, having a just and tender concern for your majesty, and our country, and being encouraged by that zeal your majesty has so often expressed from the throne, for the Protestant Succession in the illustrious House of Hanover, do now presume to renew our most humble application to your majesty, upon a subject so agreeable to you, as this which is nearest your own royal heart, and do humbly beseech your majesty, that whenever your majesty, in your great wisdom, shall judge it necessary, you will be graciously pleased to issue your royal proclamation, promising a reward to any person, who shall apprehend and bring the Pretender to justice, in case he shall land, or attempt to land, either in Great Britain or Ireland, suitable to the importance of that service, for the safety of your majesty's person, and the security of the Protestant Succession in the House of Hanover.—We also desire leave to express our great concern, that your majesty's instances, for removing the Pretender out of Lorrain, have not yet had their effect; and do humbly intreat your majesty, that you will be graciously pleased to insist upon, and renew your instances for the speedy removing the Pretender out of Lorrain; and likewise, that your majesty will be graciously pleased, in conjunction with the States-General, to desire the emperor to enter into the guaranty of the Protestant Succession in the House of Hanover, and also all such other princes, as your majesty shall think proper."

The Queen's Answer.] The Queen gave this Answer:

"My Lords; It would be a real strengthening to the Succession in the House of Hanover, as well as a support to my government, that an end were put to those groundless fears and jealousies, which have been so industriously promoted.—I do not, at this time, see any occasion for such a proclamation. Whenever I judge it to be necessary, I shall give my orders for having one issued.—As to the other particulars of this Address, I will give proper directions therein."

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Demand of King James's Queen delivered in Chancery.] This Answer revived the hopes of the Pretender's friends, who, before the warm speeches against him in both Houses, were so elated and secure of protection, that, towards the end of March, an agent of king James's queen offered to file a bill in Chancery of 650,000*l.* due to her by the crown of England, for the dowry of 50,000*l.* per annum since the death of James 2. But, the agent having in the bill given her the title of Queen-mother, the officer refused to file it; upon which the agent changed the title, and presented it in the name of 'the most illustrious princess Maria, relict of James the 2nd, king of England.' Though no notice was taken of this formal demand, yet, pursuant to a private agreement made in France by the lord Bolingbroke, about 50,000*l.* were remitted thither for her use.

Baron Schutz demands a Writ for the Duke of Cambridge.] The day, the Address against the Pretender was presented, an incident happened, which, as soon as known, threw the ministers into the utmost confusion. On the 10th of April, most of the Whig lords held a consultation at the lord Halifax's, to which baron Schutz, envoy from the elector of Hanover, was admitted. It was resolved, pursuant either to the orders, Schutz had received from his court, or to the discretionary power, which was lodged with some of these lords, that the envoy should take the first opportunity to demand a writ for the Electoral Prince to sit in the House of Peers, as duke of Cambridge. Accordingly on the 12th of April, baron Schutz made a visit to the Lord Chancellor, and among other civilities, acknowledged the affection, he had shewn, on several occasions, to the most serene Electoral House of Hanover. The Lord Chancellor told him, 'He was extremely sensible of the honour he did him by his visit and compliment; and desired him to assure the elector, of his intire devotion to his service; hoping his electoral highness gave no credit to the false reports, that were industriously spread abroad, in order to give him jealousies of her majesty's ministers.' The baron answered, he would not fail discharging so agreeable a commission: but he had a favour to ask him, in the name of the Electoral Prince, that his lordship would be pleased to make out a Writ for his sitting in the House of Peers, as duke of Cambridge. The Lord Chancellor surprized at this unexpected demand, told the baron, 'It was not usual to make out Writs for peers, who were out of the kingdom. However, he would forthwith apply to her majesty for directions in this case.' The Baron answered, 'He did not doubt, his lordship knew, and would perform the duty of his office. But, as to the objection of the duke of Cambridge's being out of the kingdom, he would assure him, his Electoral Highness had resolved to come over very speedily, and perhaps might be landed before the Writ was made out.' Upon this, the Baron taking his leave, the Chancellor desired him to remember, 'He did not refuse his demand, but only thought it proper to acquaint the queen with it; which he would do immediately.' To this the Baron answered, 'He likewise desired his lordship to remember, that he applied himself to him for the duke of Cambridge's Writ.' The Chancellor having the same evening acquainted the queen and her chief ministers, with these passages, a council was immediately called; and, having sat from nine o'clock till after eleven, it was resolved 'That the Lord Chancellor should make out a writ for the duke of Cambridge.' This transaction, which, the next morning, was first whispered about in the court of requests, cast a sudden damp on the spirits of the open and secret friends of the Pretender. It was then a question, whether, baron Schutz had made that demand by express directions from his master or only by the advice of some Whig lords. But it is certain, the queen took so ill the baron's applying himself to the Chancellor, before he acquainted her with his orders, that she sent the master of the ceremonies to forbid him the court. Two days after a messenger was dispatched to Mr. Thomas Harley, at the court of Hanover, with instructions relating to the new scene opened by baron Schutz; who, about a week after, thought fit to return to Hanover, having left with resident Kreyenberg a letter to Mr. Bromley, telling him, 'That having had the misfortune to incur her majesty's displeasure, and being thereby rendered incapable of serving his master any longer in this court, he thought it his duty to return home. Kreyenberg delivered this letter to Mr. Secretary Bromley, who told him, 'That either he, or any other minister, whom the elector of Hanover would please to send over, would be well received by her majesty.' This affair occasioned various conjectures: and as, Schutz's declaration of the duke of Cambridge's intention suddenly to come over alarmed the Pretender's adherents, so it raised the spirits of the well affected to the House of Hanover. What was the sense of the courtiers about the duke of Cambridge's coming over, and the present juncture of affairs, may be gathered from some remarkable passages in a pamphlet published about this time with the title of 'Hannibal not at our Gates; or an Inquiry into the ground of our present fears of Popery and the Pretender:' of which one of the principal writers of the Examiner was suspected to be the author. In this pamphlet, it was, among other things, ironically insinuated, 'That a certain gentleman was gone to Hanover to bamboozle.' And indeed it was the general opinion that Mr. Harley, who arrived at Hanover on the very day baron Schutz demanded the writ, was sent only to amuse that court with professions of the treasurer's and all his friends devotion to the electoral family; and (it is said) as a proof of that devotion, with the very original of a letter, the queen had writ with her own hand to the Pretender. But, as the subject of Mr. Harley's last embassy is still a secret, no stress can be laid on the various conjectures, it no-

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casioned. It may only be observed, he met with a cold reception at Hanover, and making no long stay there, came back to London on the 25th of May. It may likewise be remarked, that upon the first surprize of baron Schutz demanding the writ for the duke of Cambridge, the lord Paget, who was named envoy extraordinary to the court of Hanover, he declined that employment in so critical a juncture; and the earl of Clarendon was afterwards appointed.

Resolution for a second Address about the Pretender.] The Lord-Chancellor having on the 13th reported to the House of Peers the queen's Answer to the Address against the Pretender, some expressions in it did not please the Whig lords, who moved for another Address to return her majesty thanks for her Answer: and containing the grounds and reasons of their former Address. The court-lords, foreseeing, that if such an Address was carried, the prevailing party might advance to more vigorous resolutions, strenuously insisted not to enter into ungrateful particulars, but to confine themselves to expressions in the queen's Answer. An order for such an Address being offered, the duke of Leeds moved, that at the close of it where mention was made of the fears and jealousies universally spread, the words 'and industriously' might be added: which, after a debate of four hours, wherein the bishop of Sarum made a long speech, was carried only by the majority of two proxies, the votes in the House being equal, 61 on each side. This victory of the courtiers was by their antagonists treated as little better than a defeat. And it is certain, that the Whig lords had that day carried their point, had it not been for the accidental loss of four votes; the duke of Rutland, being then at Newmarket with a proxy in his pocket; the duke of Grafton, being sent for home to his dutchess then in labour with her first child; and the earl of Gainsborough, being taken so ill that very morning, that he could not sign his proxy. It was also remarkable, that of 16 bishops then in the House, two only, Rochester and Durham, voted with the court: that the new bishops of London and Bristol, who were thought blindly devoted to the ministry, joined with the Whigs; as did also the earl of Anglesea; which was undoubtedly owing to baron Schutz's demanding a writ for the duke of Cambridge, which visibly gave life and weight to the Whig party. However the Resolution being laid before the queen, she only answered, 'She thanked them for their Address; and that she took very kindly the assurances they gave.'

Debate in the Lords on the Treaties of Peace and Commerce.] April 14. A motion was made for taking into consideration the Treaties of Peace and Commerce; and some speeches were made on both sides, after which the debate was adjourned to the 16th. That day the Whig lords being apprehensive, that, if any debate arose about the Spanish Treaty, the other party would propose an Address to the queen, approving of that Treaty, which they thought absurd, they therefore agreed to say nothing against the Treaty, that draw might them into a debate.

The Lord *North and Grey* stood up first, and said, If any lord had any objections against the Spanish Treaty, he was ready to answer them; and so, in a challenging manner, went on for some time. After he had done there was a silence for a quarter of an hour: and then.

The Earl of *Clarendon* said, "My lords, since no objection can be raised against the Spanish Treaty, we should address her majesty to return her our most humble thanks, for having, by a safe, honourable, and advantageous Peace with Spain, delivered these nations from a long, consuming land war; and to desire her, notwithstanding any obstructions, that may be thrown in her way, to proceed to the settlement of Europe, according to the principles laid down in her most gracious Speech."

The Lord *Cowper* answered, "My lords, this is the most barefaced attempt, that ever was made by this or any other ministry, to secure themselves, by endeavouring to get the sanction of this House for themselves. My lords, I have no objections against these Treaties. Are the ministers themselves jealous, that their actions stand in need of the sanction of this House? Else why this endeavour at an Address, to make their act the act of the House? The lord, that spoke first, acting like a soldier, would, by skirmishing, have drawn on a general engagement; but the troops are too well disciplined to fall into an ambuscade of his laying. But I cannot remove my finger from the original of our misfortunes, 'the cessation of arms.' We were then told, that, if a blow had been struck, it would have ruined the Peace. Would to God it had ruined this Peace."

The Lord *Halifax* said, "What was last mentioned, my lords, makes me rise into the highest resentment of the vile usage given my lord duke of Ormond; a lord for whom I have the most profound respect. My lord Ormond went over into Flanders with a true English heart, which, my lords, is the best in the world, with a desire to do his country all the service his great ability capacitated him to do. Therefore, it must be inconceivable, the horrible anguish it must give his noble and generous heart to receive such shocking orders, restraining the noble ardour of the soldiers, flushed with former victories, and hopes of still greater."

The Earl of *Nottingham* said, "My lords, I never knew the like Address to this ever offered at but once, in the case of the duke of Suffolk, who, in Henry the 6th's days, had made a Treaty, for which he thought it convenient to get the sanction of this House by an Address, and got seven lords made at one time to carry the vote. Yet he was called to an account afterwards for the Treaty, notwithstanding the Address. I say no more of the man, because he came to an untimely end."

The Bishop of *Salisbury* likewise said, "My

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lords, I do not understand what law or reason can be given, to impower one ally to disengage himself from his other allies, unless in a proper manner and time he acquaints them, he has done his *ultimus conatus*; and that to proceed further would be a *certa pernicies*. That we had not come to our *ultimus conatus* is plain, since in the year of the cessation of arms, and the year following, wherein nothing was done, we made as great efforts as the former, when we did so many glorious things; and to proceed further, in all human probability, it would have been *certa pernicies* to our then enemy the French."

The Bishop of *London*, who had been one of the plenipotentiaries at Utrecht, answered, "My lords, at the cessation of arms, our case was the very case in point, which the bishop of Sarum puts, for we had then come to our *ultimus conatus*, and, for aught we know, to proceed further would have been *certa pernicies*."

The Earl of *Wharton* replied, "I did design to have said a great deal to-day, but I find it anticipated by the lords, who have spoken before me. Only I must say what I learn by sitting here, that the carrying this vote is the *ultimus conatus* of the ministry; and, if they do not carry it, it will be to them *certa pernicies*. Good, my lords, gratify my curiosity, to let me see what *certa pernicies* will be."

Some other Whig lords maintained, that there was no absolute necessity of making a Peace, the nation having given almost as much money for these three years past, as during any three years of the war; and, as for the pretended advantages, gained by the Treaty with Spain, it was plain they were no more than what had been stipulated before by the Treaty of the year 1667. They also complained of the method, in which the negociation of Peace had been carried on, and of our giving up the interests of the emperor, the king of Portugal, and of the Catalans. But after a warm debate, that lasted till nine o'clock in the evening, it was resolved by a majority of 82 votes against 69, to present an Address, to acknowledge "her majesty's goodness to her people, in delivering them by a safe, honourable, and advantageous Peace with France and Spain, from the burthen of a consuming land war, unequally carried on, and become, at last, impracticable; and to intreat her majesty to pursue such measures, as she should judge necessary for completing the settlement of Europe on the principles laid down in her majesty's speech." An Address to that purpose was the next day agreed to, and sent down to the Commons for their concurrence.

Report of the Commissioners of Public Accounts.] April 13. To prepare the Commons to give their approbation to the conduct of the ministry, in concluding their Treaties with France and Spain, several papers were laid before the House: particularly, a Report, with Observations from the Commissioners of Public Accounts, setting forth the Abuses and Mismanagements in cloathing the Army, in disposing the Off-reckonings of Regiments, and in other instances. Then to give a view how heavy the war was become to England, and how insupportable the continuance of it would have proved, there was added, 'A State of the Expence of the late War' for 12 years, which, with the supply of 2,776,228*l.* granted this session, amounted to above 69½ millions.

Account of the late Treaties laid before the Commons.] But the most remarkable paper of all was an Account of the state of the several Treaties of Peace, between the queen and her allies, and France and Spain, with the obstructions she had met with, in her endeavours to make the same universal and compleat; and of what was done relating to the Catalans. This account (supposed to be drawn up by the lord Bolingbroke, in order to remove the objections against the late treaties, particularly, the giving up the interests of the king of Portugal and of the Catalans) was so varnished over with glosses and popular pretences, that many members, who were willing to believe what was said, and had no opportunity or inclination to be better informed, were persuaded of the truth of it, and induced to side with the ministry in all the debates about the succession and treaties.

The Protestant Succession voted, by the Commons, not in Danger.] April 15. A motion was made in a committee of the whole House, by sir Edward Knatchbull, and the question put, "Whether the Protestant Succession in the house of Hanover be in danger under her majesty's government?"

Mr. Secretary *Bromley* endeavoured to prove it was not, by representing what the queen had done for securing that Succession, and removing the Pretender from Lorrain. He was answered by

Mr. *Walpole** who, with great spirit, shewed

* "The zeal of Walpole on this subject, was by no means adopted from a spirit of opposition, and was not a sudden spark struck out by the circumstances of the moment: it was a leading principle which had regulated his political conduct from his first entrance into life; it had been instilled into him by education, and matured by reason and reflection, to which he uniformly adhered in all situations and under all circumstances. If his object in spreading these alarms was to distress government, and to excite tumults against the ministers, he acted a false and wicked part; but if he really had reason for his suspicions, he must be justified by every principle of attachment to the religion and constitution of the country. He can only be fully vindicated from the conviction, that it was the secret wish and resolution of the queen to exclude the Hanover family, and to restore the Pretender, and that the ministers were disposed to co-operate with her inclinations. At the period of which we are now speaking, the strongest suspicions were entertained, that such a scheme was in agitation, and those suspicions have been since verified by the most authentic documents." Coxe's Walpole.

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the Protestant Succession to be in danger, not from her majesty, but from the dubious conduct of some persons in high stations; and therefore insisted, that the queen might not be mentioned in the question.

Mr. *Campion*, having spoken in vindication of the ministry, was answered by the earl of Hertford. The lord Hinchinbroke expressed likewise his fears of the Protestant Succession being in danger, from the encouragement, that was given to the Pretender's friends, and particularly in North-Britain, which he had an opportunity to observe, when he was there with the regiment, in which he had a troop. After some other speeches, the court party, being apprehensive the question would go against them, endeavoured to drop it, by moving, that Mr. Freeman, chairman of the committee, should leave the chair. Upon this,

Sir *Thomas Hanmer*, the Speaker, made a memorable speech, importing, "That he was sorry to see, that endeavours were used to wave that question, and stop their mouths; but he was of opinion, this was the proper, and perhaps the only time for patriots to speak. That a great deal of pains were taken to screen some persons; and, in order to that, to make them overlook the dangers that threatened the queen, the nation, and the Protestant Succession. That, for his own part, he had all the honour and respect imaginable for her majesty's ministers; but that he owed still more to his country than to any minister. That, in this debate, so much had been said to prove the Succession to be in danger, and so little to make out the contrary, that he could not but believe the first. He concluded with taking notice of sir Patrick Lawless being suffered to come over, and admitted to an audience of her majesty." This speech had a great influence on the unbiassed and unprejudiced members; but nevertheless, after a long and warm debate, it was resolved, by a majority of 256 voices against 208, "That it is the opinion of this Committee, that the Protestant Succession in the house of Hanover is in no danger under her majesty's government. 2. That the House be moved humbly to address her majesty, returning the Thanks of the House to her majesty, for the instances she has used for the removal of the Pretender from the dominions of the duke of Lorrain, and humbly desiring her majesty to insist upon, and renew her instances for his speedy removal from thence."

When these Resolutions were reported the next day to the House, there arose a debate, in which Mr. Walpole, Mr. Lechmere, and general Stanhope made very strong speeches. Mr. Walpole, among other things, applauded the public spirit, which the Speaker had shewn the day before; but added, he despaired of seeing truth and justice prevail, since, notwithstanding the weight of a person of his known integrity, merit, and eloquence, the majority of votes had carried it against reason and argument. General Stanhope endeavoured to prove the Protestant Succession to be in danger by this single but forcible induction, "That as it was universally acknowledged, it had been the French king's intention, so it was still his interest, and he had it now, more than ever, in his power, to restore the Pretender." However it was carried without a division, that the Protestant Succession was out of danger, and that an Address of thanks should be presented to the queen. To which Address she answered, that she would renew her instances for the removal of the Pretender out of Lorrain.

The Commons agree with the Lords in an Address upon the Treaties of Peace.] The Lords having sent, as before mentioned, a Message to the Commons for their concurrence, in an Address of thanks for the Treaties of Peace and Commerce with France and Spain, the Message was taken into consideration on the 22d of April, and a warm debate arose. The most material objections were raised by Mr. Ward, an eminent merchant, to the treaties of commerce, in which many essential points, particularly the duties on several sorts of goods and merchandize, were left loose and undetermined, and therefore liable to arbitrary explanations. Mr. Auditor Foley having answered him, he was replied to by Mr. Horace Walpole, who was supported by sir Peter King. Mr. Aislabie, who had, some time before, left the court-party, and was therefore removed from his place as one of the lords of the Admiralty, spoke, on this occasion, with great vehemence against the ministers, for having made so precarious a Peace. They were answered by Mr. Campion; and the leading men among the Whigs plainly perceiving from the noise and laughter of their antagonists, that they were sure of a majority, gave up the contest, and did not think fit to insist on a division, which would but expose their weakness.

Address of both Houses upon the Treaties of Peace.] So it was resolved to agree with the Lords in the following Address, which was presented, the 24th of April, by both Houses to the queen:

"Most gracious Sovereign;

"We your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons in parliament assembled, beg leave to express the just sense, which we have of your majesty's goodness to your people, in delivering them, by a safe, honourable and advantageous Peace with France and Spain, from the heavy burthen of a consuming land war, unequally carried on, and become at last impracticable. And we do most earnestly intreat your majesty, that you will be pleased, with the same steadiness, notwithstanding all the obstructions, which have been, or may be thrown in your way, to pursue such measures, as you shall judge necessary for compleating the settlement of Europe, on the principles laid down by your majesty in your most gracious Speech from the throne."

The Queen's Answer.] To which the Queen returned this Answer:

"My Lords and Gentlemen; The state of public affairs in Europe, as well as the neces-

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sities of my own kingdom, obliged me to enter into a Negociation of Peace; and, notwithstanding all obstructions and difficulties, I have, by the blessing of God, brought it to a happy conclusion.—I esteem this address as the united voice of my affectionate and loyal subjects; and I return you all the heartiest thanks, which can be given by a sovereign, who desires nothing more, than to see her people safe and flourishing."

The Schism Bill moved for in the House of Commons.] In the consultation held by the ministry, after the demand of the duke of Cambridge's writ, wherein it was debated, Whether the queen should invite over that duke? the Lord-Treasurer, the Lord Chancellor, the Lord Privy-Seal, and another privy-counsellor, were for it; but the lord Bolingbroke having opposed it, and carried the negative, resolved to push his point, and to use all possible means to defeat the Protestant Succession. With that view he is said to have broke all measures with the Treasurer, and united himself more closely with the high church party. As the farther discouragement and even ruin of the Dissenters was thought necessary for accomplishing this scheme, it was begun with the famous Schism-Bill. A motion for it, on the 12th of May, by sir William Windham, was introduced, by reading the 8th, 9th, 10th, and 11th sections of the 'Act of 'Uniformity,' passed after the Restoration, by which, above 2,000 ministers were turned out of their livings. The motion being approved, a bill was ordered to be brought in, 'to prevent 'the growth of Schism, and for the further se-'curity of the church of England as by law 'established.' On the other hand, in order to strengthen the jacobite party in Scotland, a motion was made for a a bill, to invest the Scots bishops revenues and rents in the queen, to be applied to the support of the episcopal clergy. To render this bill ineffectual, it was proposed by the Whigs, that these revenues should be applied to such only of the episcopal clergy, as should pray for the queen and the princess Sophia in express words. As the court-party could not well oppose this addition, and as the resuming of the episcopal revenues, which had been forfeited at the Revolution, and given to the ministers of the kirk of Scotland, would have been attended with great difficulties, the bill was suffered to drop. It was, however, resolved to finish the Schism-bill.

Debate in the Commons on the Schism Bill.] When this bill was engrossed and read the third time in order to be passed, there arose a long and warm debate. Mr. Hampden, Mr. Robert Walpole, general Stanhope, Mr. Lechmere, sir Joseph Jekyll, and sir Peter King, exerted their eloquence in opposing it, representing in general, "That it looked more like a decree of Julian the apostate, than a law enacted by a Protestant parliament, since it tended to raise as great a persecution against our Protestant brethren, as either the primitive christians ever suffered from the heathen emperors, or the Protestants from Popery and the inquisition."

Mr. *Stanhope* shewed, in particular, the ill consequences of this law, as it would of course occasion foreign education; which, on the one hand, would drain the kingdom of great sums of money; and, which was still worse, fill the tender minds of young men with prejudices against their own country. He illustrated and strengthened his argument by the example of the English popish seminaries abroad, which, he said were so pernicious to Great Britain, that, instead of making new laws to encourage foreign education, he could wish those already in force against Papists were mitigated; and that they should be allowed a certain number of schools.—The chief advocates for the bill, were Mr. secretary Bromley, sir William Wyndham, Mr. Hungerford, and Mr. Collier.

Mr. *Bromley* maintained, "The dissenters were equally dangerous to church and state. However, if the members, who spoke in their behalf, would have this bill drop, he would readily consent to it, provided another bill were brought in, to incapacitate them either to sit in that house, or to vote in elections of members of parliament." Mr. Walpole answered this speech with great force; after which Mr. Hungerford recapitulated, and, in his usual ludicrous way, faintly endeavoured to confute what had been offered by the Whig members.

Mr. *Collier*, who brought up the rear, did still worse. This man, formerly an attorney, had, by a wife, got the directorship of the play-house in Drury lane; and afterwards, by his intruding assurance, the acquaintance and intimacy of the lord Bolingbroke. At whose earnest request, Mr. Collier, though scarce worth 30*l.* a year, was, by the duke of Beaufort's interest, brought into the House of Commons, where he took this solemn occasion to signalize his zeal for the cause he was to serve. With this intention he seconded Mr. Hungerford, and, in order to expose the dissenters, he desired leave to read to the house a collection of absurdities and impious expressions, which he pretended to have taken from their writings. After reading part of this impertinent legend, he fell on a passage extracted from the nonsensical rhapsodies of the late Mr. Hickeringhill, minister at Colchester, wherein Mr. Collier said, he averred, 'That our blessed Saviour was a son of a w——.' At these shocking expressions, Mr. Bromley interrupted him, saying, "Such impious words ought not to be repeated in that assembly."

On the other hand, some other members observed, that Mr. Hickeringhill was not a dissenting teacher, but a minister of the church of England: and that he was known to be crack-brained; and therefore his extravagancies and blasphemies proved nothing against any set of men, much less against the dissenters.

Mr. *Lechmere* spoke against the bill with great vehemence; and, among other things,

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took notice, "That the indulgence granted to Protestant dissenters, since the Revolution, had been so far from hurting the church, that it had rather inlarged its pale; and it was notorious, that some persons [meaning the Treasurer, the Chancellor, and the lord Bolingbroke] who had been bred among schismatics, were, or, at least pretended to be, the strongest supports of the established church."

Several other speeches were made for and against the bill; which was carried by a majority of 237 voices against 126.

Debate in the Lords on the Schism Bill.] When the Bill was read the first time in the House of Peers,

The Lord *Bolingbroke* said, "It was a bill of the last importance, since it concerned the security of the church of England, the best and firmest support of the monarchy; both which all good men, and, in particular, that august assembly, who derive their lustre from, and are nearest the throne, ought to have most at heart: and therefore, he moved, that it should be read a second time."

The Lord *Cowper* said, "No man was more ready than himself to do every thing, that should appear necessary to attain the seeming intention of this bill, the preventing the growth of schism, and the further securing the church of England. But the enacting part would be so far from answering the title of it, that, in his opinion, it would have a quite contrary effect, and prove equally pernicious to church and state." He spoke on these two heads near half an hour, and, among other things, represented, "That instead of preventing schism, and enlarging the pale of the church, this bill tended to introduce ignorance, and its inseparable attendants, superstition and irreligion." To this purpose he took notice, "That in many country towns, reading, writing, and grammar-schools were chiefly supported by the dissenters: not only for the instruction and benefit of their own children, but likewise of those of poor churchmen; so that the suppressing of those schools would, in some places, suppress the reading the holy scriptures." On the other hand, he observed, "That this bill struck at the ancient rights and prerogative of the House of Peers; which, by the constitution is the supreme court of judicature, and the dernier resort in all causes; whereas, by this bill, the justices of the peace were empowered finally to hear and determine the offences against the same. My lords, added he, I would rather enlarge, than abridge the power of justices of the peace, were it but to encourage gentlemen to take upon them an office so troublesome, and at the same time so unprofitable, unless it be perhaps in the county of Middlesex. But, my lords, I shall never consent to give up the birth-right and ancient privileges of this august assembly, of which I have the honour to be a member."

The Earl of *Wharton* said, "He was agreeably surprized to see, that some men of pleasure were, on a sudden, become so religious, as to set up for patrons of the church. But he could not but wonder, that persons who had been educated in dissenting academies, whom he could point at, and whose tutors he could name, should appear the most forward in suppressing them. That this was but an indifferent return for the benefit the public had received from those schools which had bred those great men, who had made so glorious a Peace and Treaties that executed themselves; who had obtained so great advantages for our commerce, and who had paid the public debts, without any further charge to the nation. So that he could see no reason there was to suppress those academies, unless it were an apprehension, that they might still produce greater geniuses that should drown the merits and abilities of those great men. My lords, continued he, to be serious it is no less melancholy than surprizing, that at a time, when the court of France prosecutes the design they have long since laid to extirpate our holy religion; when, not only secret practices are used to impose a popish Pretender on these realms, but men publicly inlisted for his service; it is melancholy and surprizing, I say, that at this very time a bill should be brought in, which cannot but tend to divide protestants; and consequently to weaken their interest, and hasten their ruin. But then the wonder will cease, if we consider what madmen were the contrivers and promoters of this bill." He excepted, in particular, against the word Schism with which the frontispiece of the bill was set off, and said, "It is somewhat strange, they should call schism in England what is the established religion in Scotland; and therefore, if the lords, who represented the nobility of that part of Great Britain, were for this bill, he hoped, that, in order to be even with us, and consistent with themselves, they would move for the bringing in another bill, to prevent the growth of schism in their own country." He said also, on another occasion (for he spoke more than once) "That both in this bill, and in the speeches of those, who declared for it, several laws were recited and alledged; but that there was a law, that had not yet been mentioned. I expected, added he, that venerable bench [turning to the bishops] would have put us in mind of it: but since they are pleased to be silent in this debate, I will myself tell them, that it is the law of the gospel, To do unto others as we would be done unto."

The Earl of *Anglesea* said, "That the dissenters were equally dangerous both to church and state: that they were irreconcilable enemies to the established church, which they had sufficiently manifested in the late king James the 2nd's reign, when, in order to obtain a toleration, they joined themselves with the papists; and that they had rendered themselves unworthy of the indulgence the church of England granted them at the Revolution, by endeavouring to engross the education of youth, for which purpose they had set up schools and academies in most cities and towns in

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the kingdom, to the great detriment of the universities, and danger of the established church."

The Lord *Halifax* urged, "That the very bringing in of this bill was injurious to the queen; and he could not believe her majesty would ever give her royal assent to such a law after the solemn declaration she had made from the throne, that she would inviolably maintain the toleration, which this bill visibly struck at. That her majesty made it the glory of her reign to follow the steps of queen Elizabeth, who had not only entertained and protected the reformed Walloons, who took sanctuary in her dominions from the Spanish inquisition, but had likewise allowed them the public exercise of their religion, and caused a clause in their favour to be inserted in the act of uniformity. That by that means, that wise and glorious queen had vastly increased the wealth of the realm, the Walloons having settled here the woollen manufactures, which are the best branch of the national trade. That the protection and encouragement the late king William and queen Mary, and her present majesty, had given to the French refugees, had proved no less advantageous to Great-Britain, and therefore it would be a piece of barbarity to make an act which should debar many French protestants of means of subsisting, either by keeping public schools, or teaching in private families; especially considering their late hard usage, the government not having for above three years past, paid them any part of the 15,000*l.* per ann. allowed by parliament in the civil list, towards the maintenance of their ministers and poor. He concluded with taking notice of the fatal consequences of persecuting the dissenters in king Charles the 1st's reign, which kindled a furious and unnatural civil war, and ended in the total overthrow of Church and State, and in the king's parricide."

The Lord *Townshend* represented the ill effects of persecution in general. He said he had lived a long time in Holland, and had observed that the wealth and strength of that great and powerful commonwealth lay in the number of its inhabitants: and at the same time he was persuaded, that, if the States should cause the schools of any one sect, tolerated in the united provinces, to be shut up, they would soon be as thin of people as Sweden or Spain, whereas they now swarm with inhabitants.

The Lord *North and Grey*, who spoke for the bill, maintained the general assertion of his party, "That the church was in danger from the growth of schismatics."

The Earl of *Nottingham* said, "He owned he had formerly been of opinion, that the occasional conformity of dissenters was dangerous to the established church; and therefore he ever promoted the bill to prevent it. But that, the church having now that security, he believed her safe and out of danger; and therefore he thought himself in conscience obliged to oppose so barbarous a law as this, which tended to deprive parents of the natural right of educating their own children. He added he had observed both from history and his own experience, that all the persecutions that had been raised in England against schismatics, originally proceeded from, and tended to favouring Popery." He particularly excepted against that part of the bill, which enacts, "That any person who should keep any public or private school or instruct any youth as tutor, should have a licence of the respective archbishop or bishop of the place, &c. My lords, said he, I have many children; and I know not whether God Almighty will vouchsafe to let me live, to give them the education I could wish they had. Therefore, my lords, I own, I tremble, when I think, that a certain divine who is hardly suspected of being a christian [meaning Dr. Swift] is in a fair way of being a bishop: and may one day give licences to those who shall be instructed with the instruction of youth." Some other lords made speeches for and against the bill. But the Lord Treasurer contented himself with saying, "That he had not yet considered of it; but when he had, he would vote according as it should appear to him, to be either for the good or detriment of his country. And therefore he was for reading the bill a second time;" which was agreed to without dividing, and put off to the 7th of June.

After this, the presbyterians petitioned that they might be heard by their counsel against the Bill; but their petition was rejected by a majority of 72 against 66. It was observed on this occasion, earl Powlet, the lord Foley, the lord Mansel, and some other friends of the lord-treasurer, voted with the Whig lords, for allowing the Petition; and the Lord-Treasurer himself was out of the house, that he might not be obliged to declare on either side: which strengthened their opinion, who thought the bill levelled against him, with a view, that, if he voted for it, he would lose the Dissenters and the Whigs entirely; if he voted against it, he would lose the queen.

June 7. The Lords read the Schism bill a second time, and after a short debate, agreed, that a clause should be inserted in the bill in favour of the French protestant churches. Two days after in a committee of the whole house, of which the archbishop of York was chairman, the bill was examined paragraph by paragraph, from one in the afternoon till eight in evening

The Bishop of *London* having suggested, "That the dissenters had made this bill necessary, by their endeavours to propagate their schism, and to draw the children of churchmen to their schools and academies."

The Lord *Halifax* answered, That what they did was with the knowledge and consent of the parents, who, in many places, had not sufficient means to educate their own children: for which reason he moved, That since this bill was occasioned, as was suggested, by the dissenters endeavouring to ingross the educa-

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tion of the youth of both persuasions, they might be allowed schools to instruct their own children. This motion, being formed into a question, was debated near three hours. The lord Cowper and Halifax, the earl of Sunderland, and some other peers, made several speeches for the affirmative. But the lord Bolingbroke, the earl of Abingdon, and the lord chancellor, insisted on the negative, which was at last carried by 62 votes against 48.

After this it was moved, That Dissenters might, at least, be suffered to have school-mistresses to teach their children to read, which, after a debate of about half an hour, was carried without dividing; as was also a clause, That this act should not extend to any person, who should instruct youth in reading, writing, arithmetic, or any part of mathematical learning, that relates to navigation, or any mechanical art only. Then was examined that part of the bill, whereby the conviction of offenders against this act was left to the justices of the peace; and, after a warm debate, it was carried by a majority of 59 against 54, that the conviction should be in the ordinary course of justice, upon an information, presentment, or indictment, in any of her majesty's courts of record at Westminster, or at the assizes, or before justices of Oyer and Terminer. The court-party finding, by this last division, that they lost considerable ground, and fearing, other amendments would be made, which would render the bill altogether useless, moved, that the chairman leave the chair, in order to adjourn. But though the contrary party at first opposed it, yet, after some debate, upon the penalties to be inflicted on the offenders, both parties being equally tired, the house adjourned to the next day.

June 10. The Lords resumed the debate about the Penalties, and fixed the same to 3 months imprisonment; after which it was moved and agreed, 'That persons aggrieved might appeal from ecclesiastical censures, as in cases of ordinary jurisdiction.' A clause was afterwards proposed and carried to exempt from the penalties of this act any tutor, who shall be employed by any nobleman or noblewoman, to teach in their families, provided such tutor do, in every respect, qualify himself according to this act, except only in that of taking a licence from the bishop. The earl of Anglesea moved, That a clause might be inserted, to extend this act to Ireland: which after some debate was carried in the affirmative by the majority of one voice only. When the bill with these amendments was reported to the house, several speeches were made against the clause to extend this bill to Ireland: particularly by the duke of Shrewsbury, lord lieutenant of that kingdom, who was just returned from thence. But the question being put, it was carried by 57 against 51, that the clause should stand. The next day the bill was read the third time; and after a small debate, it was carried by 77 votes against 72, that it should pass.

When the bill thus amended was sent to the Commons, a short debate arose. Mr. Lechmere and Mr. Walpole represented, 'That, since the protestant dissenters of Ireland were made liable to the penalties of this bill, it were but just either to insert a clause in it, or to bring in another bill, to make them enjoy the benefit of the toleration act, passed in England in the last reign.' But sir William Wyndham and Mr. Campion said, 'If leave were given to bring in such a bill, they hoped they should have leave also to bring in another to incapacitate dissenters, from voting in elections for parliament-men:' upon which that matter dropped. On the other hand, general Stanhope proposed, 'That the tutors in the families of members of the House of Commons might be put on the same foot with those, who taught in the families of a nobleman or noblewoman; it being reasonable to suppose, that the members of that house, many of whom were of noble extraction, had as great a concern as the lords for the education of their children, and an equal right to take care of their instruction.' Several members of both parties were of Mr. Stanhope's opinion. But Mr. Hungerford representing, That the least amendment now made in the house might occasion the loss of the bill; the promoters of it caused the question to be put, and it was carried by a majority of 168 votes against 98, that the Commons agreed to the Lords amendments. On the 25th of June, the Schism-bill, with several others, received the royal assent by commission. But it is observable, the very day it was to take place the queen departed this life; which accident broke all the measures of those, who had promoted that law, and rendered it in a manner ineffectual.

Protest against the Schism Bill.] Against the passing of this Bill, was entered the following Protest:

"Dissentient'

"I. We cannot apprehend (as the Bill recites) that great danger may ensue from the Dissenters, to the Church and state.—Because, 1. By law no Dissenter is capable of any station which can be supposed to render him dangerous. 2. And since the several sects of Dissenters differ from each other as much as they do from the established church, they can never form of themselves a national church; nor have they any temptation to set up any one sect among them: for in that case all that the other sects can expect, is only a toleration, which they already enjoy by the indulgence of the state; and therefore, it is their interest to support the established church against any other sect that would attempt to destroy it.—II. If, nevertheless, the Dissenters were dangerous, severity is not so proper and effectual a method to reduce them to the church, as a charitable indulgence, as is manifest by experience, there having been more Dissenters reconciled to the church since the Act of Toleration, than in all the time since the Act of Uniformity, to the time of the said Act of Toleration, and there is scarce one considerable family in England in Communion with the Dissenters: severity may

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make them hypocrites, but not converts.—III. If severity could be supposed ever to be of use, yet this is not a proper time for it, while we are threatened with much greater dangers to our church and nation, against which the Protestant Dissenters have joined, and are still willing to join with us in our defence; and therefore we should not drive them from us; by enforcing the laws against them, in a matter which, of all others, must most sensibly grieve them, viz. the education of their children; which reduces them to a necessity either of breeding them in a way they do not approve, or of leaving them without instruction.—IV. This must be the more grievous to the Dissenters, because it was little expected from the members of the established church, after so favourable an indulgence as the Act of Toleration, and the repeated declarations and professions from the throne, and former parliaments, against all prosecution, which is the peculiar badge of the Roman Church, which avows and practises this doctrine; and yet this has not been retaliated even upon the Papists, for all the laws made against them have been the effects and just punishment of treasons, from time to time committed against the State: but it is not pretended that this Bill is designed as a punishment of any crime which the Protestant Dissenters have been guilty of against the civil government, or that they are disaffected to the Protestant Succession, as by law established; for in this their zeal is very conspicuous.—V. In all the instances of making laws, or of a rigid execution of the laws against Dissenters, it is very remarkable, that the design was to weaken the church and to drive them into one common interest with the Papists, and to join them in measures tending to the destruction of it. This was the method suggested by Popish councils, to prepare them for two successive declarations in the time of king Charles 2, and the following one issued out by king James 2, to ruin all our civil and religious rights: and we cannot think that the arts and contrivances of the Papists to subvert our church, are proper means to preserve it, especially at a time when we are in more danger of Popery than ever by the designs of the Pretender, supported by the mighty power of the French king, who is engaged to extirpate our religion, and by great numbers in this kingdom, who are professedly in his interests.—VI. But if the Dissenters should not be provoked by this severity, to concur in the destruction of their country and the Protestant Religion, yet we may justly fear they may be driven by this Bill from England, to the great prejudice of our manufactures, for, as we gained them by the persecution abroad so we may lose them by the like proceedings at home. Lastly, The miseries we apprehend here, are greatly enhanced by extending this Bill to Ireland, where the consequences of it may be fatal; for since the number of Papists in that kingdom far exceeds the Protestants of all denominations together, and that the Dissenters are to be treated as enemies, or at least, as persons dangerous to that Church and State, who have always, in all times, joined, and still would join, with the members of that church, in their common enemy of their religion; and, since the army there is very much reduced, the Protestants, thus unnecessarily divided, seem to us to be exposed to the danger of another massacre, and the Protestant Religion in danger of being extirpated.—And we may farther fear that the Scots in Britain, whose national church is Presbyterian, will not so heartily and zealously join with us in our defence, when they see those of the same nation, same blood, and same religion, so hardly treated by us.—And this will still be more grievous to the Protestant Dissenters in Ireland, because whilst the Popish Priests are registered, and so indulged by law, as that they exercise their religion without molestation, the Dissenters are so far from enjoying the like Toleration that the laws are by this Bill enforced against them. (Signed) Somerset, Dorchester, Scarborough, Nottingham, Haversham, Halifax, W. Lincoln, Dorset and Middlesex, Sunderland, Bolton, Grafton, Derby, Carlisle, Foley, Greenwich, J. Ely, T. Wharton, Cornwallis, Torrington, Devonshire, Lincoln, Somers, Montagu, Radnor, W. Asaph, Townshend, Orford, Rockingham, Schomberg and Lempster, J. Bangor, De Longueville, J. Landaff, Cowper."

Proclamation for apprehending the Pretender.] June 23. Upon information given to the earl of Wharton, that two Irish officers, Hugh and William Kelly, were enlisting men for the Pretender in London and Westminster, he carried his evidence to Chief-Justice Parker, upon whose warrant William Kelly was seized at Gravesend, with five men inlisted, as Hugh Kelly was a few days after at Deal, with a pass from the earl of Middleton, Secretary of State to the Pretender. This affair having made a great noise, the ministers could not avoid taking notice of those treasonable practices; and a Proclamation was published "for apprehending the Pretender, whenever he should land, or attempt to land in Great Britain, and promising a reward of 5,000*l.* for that service."

The Commons vote an Address of Thanks thereon.] The next day, Mr. Freeman having moved in the House of Commons for an Address of thanks for the Proclamation, he was seconded by Mr. Auditor Harley, and supported by the earl of Hertford, who added, "That the 5,000*l.* mentioned in the queen's Proclamation was too small a recompence for so important a service;" and therefore moved for an addition to the Address, "That this House would chearfully aid and assist her majesty, by granting the sum of 100,000*l.* as a further reward to any, who should perform so great a service to her majesty and her kingdoms." This was opposed by Mr. Bromley, sir William Windham, and Mr. Campion, who suggested, "That the promising of a reward so far beyond what was mentioned in the queen's Proclamation, would be a sort of reflection on her majesty."

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The Queen's Answer.] June 24. But this objection being exploded, the Address was unanimously carried, and, four days after, presented by the whole House to the queen, who told them, "That the hearty concern they shewed in it for the Protestant Succession, was very agreeable to her: and that she hoped, their concurrence would have the desired effect in removing jealousies, and quieting the minds of her good subjects."

Proceedings of the Lords against the Pretender.] The same day the earl of Nottingham moved in the House of Lords for an Address of thanks for the Proclamation against the Pretender, and was seconded by the lord Halifax. The earl of Wharton, who likewise supported the motion, holding the queen's Proclamation in his hand, most pathetically lamented her majesty's owning that her endeavours to remove the Pretender from Lorrain had been ineffectual. "Unhappy princess, (said he) how much is her condition altered! Will posterity believe, that so great a queen, who had reduced the exorbitant power of France, giving a king to Spain, and whose very ministers have made the emperor and the States-General to tremble, should yet want power to make so petty, so inconsiderable a prince as the duke of Lorrain, comply with her just request, of removing out of his dominions the Pretender to her crown?"

The Lords' Address against the Pretender.] None of the peers spoke against the earl of Nottingham's motion, so that the same was carried, nem. con. and the Lords' Address being immediately drawn up, and agreed upon, was, the next day, presented to her majesty as follows:

"Most gracious Sovereign,

"We, your majesty's most dutiful and loyal subjects, the Lords spiritual and temporal in parliament assembled, in a just sense and acknowledgment of your majesty's goodness, return our most humble thanks for the Proclamation which your majesty, at the request of this House, has been graciously pleased to issue, for apprehending the Pretender, in case he should land, or attempt to land, in any of your majesty's dominions.—And since your majesty's instances for removing the Pretender from Lorrain, have hitherto been ineffectual, we take this occasion to repeat our humble request and advice to your majesty, to endeavour, in the most proper and speediest manner, not only to renew the alliances your majesty had with the princes of Europe, but also to invite them, and particularly the emperor and the king of Prussia, into the guaranty of the Protestant Succession as by law established, in the most serene House of Brunswick, and to desire them to join with your majesty, in pressing the duke of Lorrain, not to suffer the Pretender to remain in any part of his dominions.—And since the Papists and nonjurors are so insolent, as not only to support the Pretender's claim to your royal crown, by their writings and discourses, but also traiterously to enlist men into his service, and to send them to France; we most humbly beseech your majesty to issue out your royal Proclamation, promising a reward to all such persons as shall discover to any of your magistrates, and cause to be apprehended any person who hath already listed any person, or hath been listed in Great Britain or Ireland, into the service of the Pretender, or that shall carry such persons abroad.—And we do further pray your majesty to give orders to all your majesty's officers, and magistrates, to put the laws in execution against the Papists and nonjurors, by taking from them their horses and arms, and confining them to their usual habitations, in such manner as by law is directed: And that your majesty will be pleased to require an exact account of their proceedings therein, to be transmitted by them respectively, to your majesty in council, and to direct the same to be laid before this House at their next meeting."

The Queen's Answer.] Her majesty's Answer was as follows:

"My Lords; I thank you kindly for this Address. And I am glad you are pleased with what I have done for the Protestant Succession.—You may be assured I shall continue to do whatever I judge necessary for the securing our religion, the liberty of my people, and for putting an end to the vain hopes of the Pretender."

Debate in the Lords about a Bill to prevent enlisting Soldiers for the Pretender.] The lord Bolingbroke, being come into the House of Peers, just after the above Address was voted, appeared a little surprized at that resolution, and said, 'There was a more effectual way to secure the Succession in the House of Hanover.' Some members expressing their desire, that he would offer it to the House, he proposed a bill, to make it high-treason to list or to be listed into the Pretender's service. The lord Halifax represented, 'That such a bill was altogether needless, both the Pretender, and all his adherents, being already attainted of high-treason. However, he should be glad such a bill were brought in, because, with some alterations, it might be made a very good one.' The bill was accordingly brought in, and, in a committee of the whole House, of which the lord Bolingbroke was chairman, the lords Halifax, Townshend, Cowper, Somers, and Wharton, made it their business to shew, 'That the Pretender was inconsiderable of himself, and not to be feared, but so far forth, as he was countenanced and protected by the French king, whose interest and constant design was to impose him upon these realms.' And therefore they moved, and it was agreed, That the title of the Bill should be, 'To prevent the listing her majesty's subjects to serve as soldiers, without her majesty's license;' and that it should be 'high-treason to list, or be listed, to serve any foreign prince, state, or potentate, without a license under the sign manual of her majesty, her heirs or successors.' The following Proviso was likewise agreed to, 'That no license should be effectual to exempt any

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person from the penalties of this act, who should list, or cause to be listed into the service of the French king, until after the French king should have disbanded and dismissed all the regiments, troops, or companies of soldiers, which he had in his service, consisting of the natural-born subjects of Great-Britain: this act to continue in force for three years.' With these amendments, the Bill was sent to the Commons, who gave it their concurrence.*

Debate in the Lords about the Spanish Trade.] July 27. The Lords took into consideration the Trade to Spain and the West-Indies; and the earl of Nottingham made it plainly appear, that by reason of the discouragements, to which that trade was subjected by the explanations of the third, fifth, and eighth articles of the treaty of commerce between Great-Britain and Spain (which explanations were made at Madrid, after signing the treaty at Utrecht) it was impossible for our merchants to carry on that trade without certain loss. This was confirmed by the testimony of sir William Hodges, and about thirty more eminent merchants, who, being called into the House, unanimously averred, that, unless the explanations of these three articles were rescinded, they could not carry on their commerce without losing twenty or twenty-five per cent. It was observed, the Treasurer joined with the Lords, who insisted on the hearing of the Spanish merchants; which was strenuously opposed by the lord Bolingbroke. But, after a long debate, it was resolved to address the queen, for 'All the papers relating to the negociation of the Treaty of Commerce with Spain; with the names of the persons, who advised her majesty to that Treaty.' The queen sent an Answer, "That, being given to understand, that the three explanatory Articles of the Treaty of Commerce with Spain were not detrimental to the trade of her subjects, she had consented to their being ratified with the Treaty." The queen making no mention of the persons, who had advised her to ratify those explanatory Articles (which was the chief design of the address) several members excepted against the Answer as unsatisfactory. And, among the rest, the earl of Wharton and the lord Halifax represented, 'That, if so little regard was shewn to the addresses and applications of that august assembly to the sovereign, they had no business in that House;' and moved, that a Representation be made to her majesty, to lay before her the insuperable difficulties, that attended the Spanish Trade on the foot of the late Treaty: which was agreed to: it was also moved, That the House should insist on her majesty's naming the persons, who advised her to ratify the three explanatory Articles. But the courtiers warded off that blow, which was chiefly levelled at the lord Bolingbroke, and his agent Arthur Moore.

The next day, the Lords proceeded to the consideration of the Spanish Trade, and to the examination of the Commissioners of Trade and Plantations. The earl of Wharton said ironically, 'He did not doubt but one of those gentlemen could make it appear, that the Treaty of Commerce with Spain was very advantageous:' which was meant of Arthur Moore, who had the chief management of that affair, and who contradicted himself in his answers to several questions, asked him by the lord Cowper about the three explanatory Articles. This was aggravated by the confession of the other Commissioners, particularly of Mr. Robert Monkton, who declared, Mr. Moore only read cursorily to them the articles, without giving them time to examine the same. Besides which Mr. Popple, their secretary, deposed, that Mr. Moore had shewn him a letter in French from monsieur Orry, directed to don Arturio Moro, importing in substance, 'That he must not expect the 2,000 louis d'ors per annum, that had been promised him, unless he got the three explanatory Articles ratified.' Though the Lords came to no resolution about that affair, at a general court of the South-sea company, upon a full hearing of a complaint of captain Johnson, it was resolved, 'That Arthur Moore, while a director of this company, was privy to and encouraged a design of carrying on a clandestine trade, to the prejudice of this corporation, contrary to his oath, and in breach of the trust reposed in him; and that, for such his breach of trust, he be declared incapable of being a director of, or having any other employment in this company.' This censure made a great noise, and was highly resented by the lord Bolingbroke.

July 8. The Lords examined Mr. Lowndes, Secretary to the Treasury, and Mr. Taylor, first clerk, concerning the Assiento Contract. They confessed, that they were only nominal assignees for the quarter part of the Assiento contract reserved for the queen, and that some persons, to them unknown (but who were strongly suspected to be the lord Bolingbroke, the lady Masham, and Mr. Arthur Moore) were to have the benefit of it. The lord Cowper having represented, 'That the uncertainty and suspence, in which the South-sea company had a long time been kept, whether her majesty would retain to herself, or give to the Company, the quarter part of the Assiento contract reserved to her, had been the principal obstruction to the Company's carrying on that trade:' the earl of Wharton moved, for an Address to the queen, 'To give to the South-sea Company, not only that quarter part of the Assiento contract, but also the 7½ per cent. granted to

* "This, and other provisions against the Pretender, seemed the more necessary, because his friends were by this time grown to that height of assurance, as publicly to assert his right, and drink his health. To this purpose, above an hundred Irish papists had a feast at the Sun-tavern in the Strand, where the lord Fingal was chosen steward, and all that came were admitted by a printed ticket, in which was the image of a pope, or popish saint, treading heresy under foot." Tindal.

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Manasses Gilligan, and any other profits arising from that contract.' But, the question being put, it was carried in the negative by 50 voices against 43. After this, on the earl of Anglesea's motion, it was resolved by 56 votes against 40, to present an Address, to return thanks for her majesty's having so generously given, not only licenses for two ships of 500 tuns each, and the Assiento Contract; but also the quarter part, which she was pleased, at first, to reserve to herself; and that she would be pleased, that such other advantages, which were, or might be, vested in her, might be disposed of for the use of the public. This day's debate took up the Lords till nine o'clock in the evening; so they had no time, as some Whig Lords designed it, to proceed to the censure of Mr. Moore.

July 9. The Queen's Answer to their Address was reported: "That she always had a great consideration for the advice of the House: and, as to the particulars desired, she would dispose of them, as she should judge best for the service." The latter part of this Answer was very ill relished by the Whig lords; and some members took occasion to complain of the queen's silence in relation to the persons, who advised her to ratify the three explanatory Articles.

QUEEN ANNE'S LAST SPEECH TO HER PARLIAMENT.] The same day, the Lottery-bill being ready for the royal assent, the queen came to the House of Peers, and put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"The progress, which has been made in public business, and the season of the year, render it both convenient and necessary, that I should put an end to this session.

"Gentlemen of the House of Commons;

"I return you my hearty thanks for all your good services to me and to your country, and particularly for the supplies you have given me, as well to defray the expences of the current year, as towards the discharge of the national debts. In our present circumstances, it could not be expected, that a full provision should be made on both these heads. What you have granted shall be laid out with the best husbandry, and to the greatest advantage.

"My Lords and Gentlemen;

"I hope early in the winter to meet you again, and to find you in such a temper, as is necessary for the real improvement of our commerce, and of all the other advantages of Peace. My chief concern is to preserve to you, and to your posterity, our holy religion, and the liberty of my subjects, and to secure the present and future tranquillity of my kingdoms. But I must tell you plainly, that these desirable ends can never be attained, unless you bring the same dispositions on your parts; unless all groundless jealousies, which create and foment divisions amongst you, be laid aside; and unless you shew the same regard for my just prerogative, and for the honour of my government, as I have always expressed for the rights of my people."

When the queen had ended her Speech, the parliament was prorogued to the 10th of August, but she died before that day came.

Open Rupture among the Ministers.] Presently after the rising of the parliament, the discord among the ministers came to an open rupture. The Treasurer, ever since he had received the staff, had kept to himself the principal direction of domestic affairs, and the disposal of most places of profit; and, by the credit and interest of his post, and favour with the queen, had procured advantageous alliances for his children, brought great riches into his family, and advanced all his relations, whilst the conduct of foreign affairs lay on the lord Bolingbroke, who, as he was less circumspect in the prosecution of bold measures than the Treasurer, had therefore the largest share of the public odium, without any other advantage than the profits of his office, most of which he lavished away in riotous pleasures. Being a man impatient of dependance, he had frequent warm expostulations with the Treasurer, who, thinking himself secure in the queen's favour, and in his interest with the parliament, disregarded his complaints, by which the Secretary was still more enraged. Their private disputes would often have ended in an open quarrel, had not the queen, assisted by the chancellor and lady Masham, as often reconciled them, or rather, had not their confederacy in the late measures, made them suspend their mutual hatred to consult their common safety. But, as soon as the danger was over, by the parliament's solemn approbation of the Peace, it appeared, there was an irreconcileable rivalship and enmity between them. Before this last struggle, the Treasurer, either finding his interest declining at court, or despairing of the queen's life, and apprehending the consequences of the late steps, bethought himself of a timely retreat; and, to that end, endeavoured to reconcile himself to the Whigs. He tried to gain the friendship of the lord Cowper, who had the greatest weight amongst them; and, with that view, procured him to be chosen umpire between his son, the lord Harley, and the lord Pelham, in a controversy about the inheritance of the late duke of Newcastle. But the lord Cowper contented himself with arbitrating the matter according to the strictest rules of equity, and with doing justice to the son, without espousing the interest of the father. On the other hand, the Treasurer expected to be strongly supported by the duke of Shrewsbury, who had maintained himself in the esteem both of the sovereign and of the public, and whose late behaviour in Ireland had endeared him to the well-affected to the Hanover succession. But the duke, justly resenting the neglect of the ministers, while he was at Dublin, was very much unconcerned about them, when he came to London, and rather inflamed than moderated their differences, by complaining to the

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queen of some orders, that had been sent him, which he thought inconsistent with her majesty's and the nation's service. Notwithstanding these disappointments, the Treasurer formed a design of removing his competitor, as the best means to approve his affection to the Protestant succession, and therefore set Mr. Robert Monkton against Mr. Arthur Moore (the lord Bolingbroke's creature) who narrowly escaped a censure in the House of Peers, in which the Treasurer hoped the Secretary might have been involved. But, in this very instance, the Treasurer found he had lost considerable ground at court, the queen having thought fit, at the lord Bolingbroke's desire, to put a sudden stop to that inquiry. And it appeared soon after, that, by his superior interest with lady Masham, by the assistance of the lord chancellor, by his humouring the queen's natural inclination, and boldly pursuing the measures she had entered upon, the Secretary entirely ruined his rival in her favour and confidence.*

The Treasurer, in this situation of his affairs, wrote a Letter to the queen, and with it sent her an Account of Public Affairs from August the 8th, 1710, to June the 8th, 1714;† in which he endeavours to justify his own conduct, and expose the uneasy, turbulent, and ambitious spirit of lord Bolingbroke. But this had not the intended effect upon the queen.

The Lord Treasurer Oxford removed.] While the court was in this ferment, something happened, which hastened the Treasurer's disgrace. Some pretend, the lord Bolingbroke had intelligence, and informed the queen of the Treasurer's inviting the duke of Marlborough to come over (for which purpose the duke was indeed arrived at Ostend) and of his private conferences with several Whig Lords: others, that he was suspected of discovering the queen's counsels to the court of Hanover, and even of putting them upon demanding a writ for the duke of Cambridge: others again, that he was both against the scheme of new-modelling the army, and the project of a new offensive and defensive league between Great-Britain, France, Spain, Sweden, and Sicily: and others, still, that the queen was extremely angry at his presuming to send orders to Ireland without consulting with her or the council; and that the duke of Shrewsbury insisted on his removal, which the duke of Marlborough had made a previous condition of his return to England. But a certain Author (who writ in his vindication) plainly asserts, that his disgrace was intirely owing to his attachment to the house of Hanover, whose succession his enemies were resolved to prevent. However this be, on the 20th of July the Chancellor (who had retired into the country for a few days) was sent for in haste; and the next day was in close conference with the queen and the lord Bolingbroke; after which it was generally reported, the Treasurer would be speedily removed. It was said at the same time, that, to soften his fall, the queen designed to bestow on him an annual pension of 5,000*l.* for life, with the title of duke of Newcastle; and, upon his recommendation, to give the title of earl of Clare to the lord Pelham. But, contrary to his own, and indeed the general expectation, when he came to court on the 27th of July the staff was taken from him, rather with mortifying than agreeable circumstances. It is certain, that severe reproaches passed, in the queen's hearing, between the falling minister, and the Lord Chancellor, and the lady Masham, whom the Treasurer had disobliged some days before, by making a demur to a grant she had obtained of 1,500*l.* a year, and whom he looked upon as accessary to his disgrace. He told them, 'He had been wronged and abused by lyes and misrepresentations; but he should be revenged, and leave some people as low as he found them.' These expostulations could not but shock the sick queen, and give her uneasy suspicions of her being abused and deluded by one or two, if not by all three, of her principal ministers. It is pretended, that in this agitation of thought, which opened her eyes, she resolved to resign herself wholly to the conduct of the duke of Shrewsbury. But it can hardly be supposed, that in her condition, she was capable of forming a resolution so inconsistent with her late measures. It is far more reasonable to imagine that the lord Bolingbroke, having gained so great an ascendant over her, was most likely to succeed the earl of Oxford in the management of affairs. This is certain, the very day, the Treasurer was removed, the lord Bolingbroke entertained at dinner the generals Stanhope, Cadogan, and Palmes, sir William Wyndham, Mr. Craggs, and some other gentlemen; which meeting of men of such opposite principles occasioned various speculations. The most probable conjecture was, that the lord Bolingbroke, considering he could not depend on the queen's precarious life to accomplish his designs, and foreseeing a storm, he could not be able to weather, resolved to strike in with the Whigs, and to invite over the duke of Marlborough; in which he had reason to expect better success than his late rival, with whom the duke had vowed never to be reconciled. Some other particulars were at that time mentioned to corroborate these suggestions. But though the duke of Marlborough, after having been detained about a fortnight by contrary winds, did, at this very time, embark at Ostend for England; yet the true motive of his coming at this critical juncture is not certainly known. It appeared plainly, however, soon after, that, whatever were the lord Bolingbroke's thoughts and views at this time, the main design of the Whigs was to inflame the animosity between him and the earl of Oxford as the readiest way to ruin them both.

Great Confusion at Court.] The Treasurer's removal was so sudden, and occasioned such confusion, that no scheme was either formed

* Boyer. Tindal.

† See Appendix, No. IV.

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or agreed on, to supply his place, and to fill up such other vacancies, as must naturally attend his disgrace. A cabinet-council, or rather chamber-consultation, was indeed held in a hurry, the very night the earl of Oxford was removed, and several persons were proposed to manage the treasury, which was designed to be put in commission. Their number was to be five, of which sir William Wyndham, as chancellor of the Exchequer, was to be one; but the choice of the other four perplexed both the queen and her counsellors. It is said, the persons named were the lords Bolingbroke, Paget, Lexington, Bathurst, and Masham; the bishop of London, Mr. Henry Boyle, and Mr. Bridges; sir John Packington, Mr. Campion, Mr. Hill, and some others. But, whether there were fewer or more in nomination, it is certain, no resolution was taken as to the choice of any four, either in that first consultation, or in the council held the next morning; several persons who had been proposed, and spoken to, having declined to accept a precarious employment in such a juncture. On the 29th of July, the cabinet-council was to have sat on the same affair; but their meeting was deferred to the next day, by reason of the queen's indisposition, which, she was sensible, was occasioned by the late quarrelling among her servants, having intimated to one of her physicians, "That she should not outlive it."

THE QUEEN'S SICKNESS AND DEATH.

It is certain, both the dispute, to which she was an ear-witness, and the consultation upon it, which lasted till near two o'clock in the morning, occasioned such a violent agitation of the queen's spirits, as could not but hinder, according to Dr. Shadwell's opinion, the usual discharge of the imposthumation in her leg, so that the gouty humour, translating itself upon the brain, was the immediate occasion of her death. On Thursday morning (July 29), the queen finding herself indisposed with a dozing heaviness, and a shooting pain in her head, the physicians judged proper she should be cupped, which she liked better than bleeding, and which, in the same symptoms, had often given her ease. The queen was now something relieved by it; went to bed at the usual hour; rested pretty well till three o'clock on Friday morning, (July 30) when she waked; and finding something heavy on her stomach, and reaching to vomit, she brought up some matter, and then composed herself to sleep. Towards seven o'clock she waked again; and, finding herself pretty well, rose from bed, and got her head combed. This done, towards eight, she went to look on the clock; and Mrs. Danvers, one of her bedchamber women, taking notice, that she fixed her eyes a long time upon it, asked her, 'What she saw in the clock more than ordinary?' The queen answered her only with turning her head, and a dying look; at which Mrs. Danvers being frighted, she called for help. The physicians judging she was seized with a fit of an apoplexy, caused her to be let blood; upon which she came to herself again, and was pretty quiet till a little after nine, when she was seized with a second fit of heaviness and dozing, which increased so much upon her, that for above an hour she was speechless and motionless. Those about her judging, she was either dead, or near expiring, the duchess of Ormond, one of the ladies of the bed-chamber, then in waiting, sent, with all speed, a messenger to the duke her husband, with this melancholy news, which being brought to the committee of council, then assembled at the Cockpit, they immediately went to Kensington. In the mean time the physicians thought fit to give the queen a vomit, which not having all the desired effect, they administered another medicine, proposed by Dr. Mead; upon which she recovered her speech and senses.

The dukes of Somerset and Argyle, being informed of the queen's desperate condition, instantly repaired to Kensington, and, without being summoned, went into the council-chamber, where the lord-chancellor, the dukes of Shrewsbury and Ormond, the three secretaries of state, the bishop of London, and some others, were in a committee. It is easy to imagine, that some of them were surprized at their coming in; but, after they had acquainted the board with the reasons which brought them thither, the duke of Shrewsbury returned them thanks for their readiness to give the council their assistance in that critical juncture. Then they took their places, and moved, that the physicians might be examined, and ordered to give an account in writing of the queen's illness, which they did. After this, one of the council represented, how necessary it was, in case the queen died, that the place of lord-treasurer should be filled; to which the whole board assenting, the duke of Shrewsbury was proposed, and unanimously approved, as the fittest person for that high trust. Sir Richard Blackmore, Dr. Shadwell, Dr. Mead, and the other physicians, who were examined, having assured the council, that the queen was sensible, the Chancellor, with the duke of Shrewsbury, and some other lords, were ordered to attend her, and lay before her the unanimous opinion of the council; upon which she said, 'They could not recommend a person she liked better than the duke of Shrewsbury;' and, giving him the treasurer's staff, bid him 'use it for the good of her people.' The duke would have returned the lord-chamberlain's staff, but she desired he would keep them both; so the same person was at once possessed of three of the highest places of trust, honour, and profit, under the crown of Great Britain, being lord-treasurer, lord-chamberlain, and lord-lieutenant of Ireland. The duke's advancement to the post of lord-treasurer immediately changed the face of affairs; baffled the lord Bolingbroke's schemes; alarmed the friends of the Pretender; and revived the spirits of the well affected to the Hanover succession. Upon the motion of the dukes of Somerset and Argyle, it was agreed, that all privy counsellors, in or about London, without

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distinction, should attend; which the lord Somers, and some other friends to the house of Hanover, did that very day.

About three o'clock in the afternoon, the queen relapsed into a lethargy or apoplectic fit, out of which she hardly recovered by the application of the spirit of sal ammoniac to her nostrils. The physicians thought fit to apply blisters; but, at the same time, acquainted the council, that the queen's life was in the utmost danger, and entirely depended on the effect of this last remedy.

The queen continued all night in a lethargic fit, which increased to such a degree about ten o'clock on Saturday morning, (July 31), that all the physicians despaired of her life. Upon this the privy council sent orders to the heralds at arms, and to a troop of life-guards, to be in readiness to mount, in order to proclaim the elector of Brunswick king of Great Britain. At the same time, they caused a letter to be written to his electoral highness, to acquaint him "With the extreme danger the queen's life was in; with the measures they had taken to secure the crown to him; and to desire him to repair, with all convenient speed, to Holland, where a British squadron, that was fitting out with all possible expedition, would attend him, and bring him over, in case of the queen's death." This letter was that very morning sent express by Mr. James Craggs, and with him orders were dispatched to the earl of Strafford, to desire the States General to get ready to perform the guarantee of the Protestant Succession, if need should require.

The queen gave some signs of life between twelve and one o'clock, and took some spoonfuls of broth. She continued in a lethargic condition till about six in the afternoon, when, her pulse beating a little faster and higher, those about her began to entertain some hopes. But the blisters not having had the desired effect, she expired on Sunday the 1st of August, a little after seven o'clock in the morning, having lived forty-nine years, five months, and six days, and reigned twelve years and five months, wanting seven days. She was not able, either to receive the Sacrament, which the bishop of London was ready to administer, or to sign the draught of a will, whereby she directed her burial to be in the same manner and place with her late royal consort; and in which she left legacies to some of her servants.

Queen Anne, as to her person, was middle sized, and well made, but not so majestic as her sister queen Mary. Her hair dark brown; her complexion sanguine and ruddy; her face round, rather comely than handsome; her features strong and regular; and the only blemish in her face was owing to the defluxion she had, when young, in her eyes, which left a contraction in the upper lids, and gave a cloudiness to her countenance. Her bones were small, and hands beautiful. She had a very good ear for music, and performed on the guitar, an instrument formerly much in vogue. Her voice was remarkably clear and harmonious, which particularly appeared, in the graceful delivery of her speeches to the parliament. She was reckoned a pattern of conjugal affection, and a prudent indulgent mother. She was liberal though an enemy to luxury and profuseness. She was very reserved; and in all conditions of life, she required a strict attendance from all persons in their respective stations, she herself being nicely observant of all the decorums of a court.

The exercise she principally loved was hunting, which she practised in her chaise; but the gout increasing upon her, and growing extremely unwieldy, she disused that and other diversions, conducive to her health, which perhaps might have been longer preserved, had she not eat so much, an unhappiness derived to her not from her father, who was abstemious enough, but from her mother.

It was her unhappiness not to be much acquainted with our English history, and the actions of her predecessors, whereas, queen Mary was extremely well versed, not only in our own, but the histories of other countries.

Her reign may be called bloodless, not one person having been executed, at least beheaded, for treason, during the whole course of it; which cannot be said of any reign since the time of Edward 1, who died in 1307.

Semper eadem was the motto of queen Elizabeth, which queen Anne assumed upon her accession to the throne; and which had she pursued with the same resolution and steadiness, she might have exceeded her in glory and fame. But in one thing she was very unlike queen Elizabeth, whom she proposed for her pattern. Queen Elizabeth was very sparing of her honours, and a man must have deserved it before he could obtain so much as a knighthood at her hands: whereas queen Anne made more peers of the realm at once, than the other did in a reign of forty-four years. Indeed, her great grandfather king James, was the first that was lavish in conferring honour, whose example was but too much followed by his descendants; so that queen Anne was not singular in that respect, except in creating so many together, for an end that will remain a blemish upon her administration, as long as history endures.—In queen Anne ended the line of the Stuarts; their merit and demerit may be rightly stated, by considering what their regards or disregards were to the welfare of Europe: to the union and strengthening of the protestant interest; and to the quiet and prosperity of their subjects. In order to make up such an account duly and accurately, many important materials are still wanting.—There had been a new vault made on the south-side and towards the east-end of Henry 7th's chapel, to deposit the body of king Charles 2, in which that prince, queen Mary, king William 3, and prince George of Denmark were laid. Here the remains of queen Anne were likewise deposited, and there being no more room left, the vault is closed up with brickwork. *

* Tindal.

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APPENDIX.

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APPENDIX

TO

VOL. VI.

N° I.

PROCEEDINGS IN THE PARLIAMENT OF SCOTLAND; FROM THE MEETING OF THE NEW PARLIAMENT UPON THE 6TH OF MAY, 1703, TO THE UNION WITH ENGLAND, IN THE YEAR 1707: INCLUDING THE SPEECHES OF FLETCHER OF SALTOUN, &c. &c.

LIST of the New Parliament.] May 6, 1703. This day the New Parliament * met at Edinburgh. The following is,

A TRUE LIST of the Lords, Barons and Burgesses in this present Parliament of Scotland, met at Edinburgh upon the 6th day of May, 1703.

His grace James, Duke of Queensberry, Ld. High Commissioner.

THE NOBILITY,

James Ogilvie, Earl of Seafield, Lord High Chancellor.

William Johnstoun, M. of Annandale, Lord High Treasurer, Lord President of the Secret Council.

John Murray, Duke of Athole, Lord Keeper of the Privy Seal.

DUKES, 8.

James Hamilton, D. of Hamilton

* "Whilst the queen was bestowing her favours on the church-party in England, some alterations were made in Scotland, which were as advantageous to the Anti-revolutioners and Episcopalians, as they were displeasing to the Presbyterians. The earl of Marchmont, lord chancellor; the earl of Melvil, president of the council; earl of Selkirk, lord register; Adam Cockburne, of Ormiston, treasurer-deputy; sir John Maxwell, of Pollock, justice-clerk; earl of Leven, governor of the castle of Edinburgh; and the earl of Hyndford, one of the secretaries of state, were all laid aside. On the other hand, the duke of Queensberry, and the lord viscount Tarbat, were made secretaries of state; and the earl of Seafield, chancellor; the marquis of Annandale, president of the council; the earl of Tullibardin, (afterwards duke of Athol) lord privy-seal; the lord Boyle, treasurer-deputy; Mr. Roderick Mackenzy, of Preston-hall, justice-clerk; sir James Murray, of Philliphaugh, lord register; and the earl of March, governor of Edinburgh-castle. And though all these, except the earl of March, had, at or since the revolution, been deeply engaged against the interest of king James and his family; yet the duke of Queensberry and his two dependants, the lord Boyle and Sir James Murray, pretended to be quite of another mind: The marquis of Annandale, earl Seafield, and viscount Tarbat, valued themselves upon having, once, opposed king William; and the marquis, every body believed, would, if kindly dealt with, go along with the prevailing party. But, before this change in the ministry was perfected, the scantiness of the funds provided by the last parliament, and the difficulties in collecting them, rendered it absolutely necessary to call a new parliament to sit in the spring of the year 1703. And therefore the earl of Seafield, then secretary of state, came down from London to Scotland, to influence the elections, which, by a concurrence of several accidents were so managed, that a greater number of Anti-revolutioners were chosen than had been known in any former parliament. At the same time, duke Hamilton, and some others, who had been the greatest persecutors of the Presbyterians, set up for patrons of the Episcopal clergy, and obtained from the queen a letter to the privy-council of Scotland, wherein, among other things, she said: 'We do, in the first place, recommend to your care the church now established by law, in it's superior and inferior judicatures, such as sessions, presbyters, synods, and general assemblies; as also in the exercise of their holy functions, and in what concerns their persons and benefices. We are informed, that there are many Dissenters who, albeit they differ from the established church in opinion, as to church government and form, yet are of the Protestant Reformed Religion, some of which are in possession of benefices, and others exercise their worship in meeting-houses. It is our royal pleasure, that they should be directed to

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Anne Scot, Dutch. of Buccleugh
Ch. Lenos, D. of Lenox
Geo. Gordon, D. of Gordon
James Douglas, D. of Queensberry
Archibald Campbel, D. of Argile
Arch. Douglas, D. of Douglas
John Murray, D. of Athole.

MARQUISSES, 4.

James Graham, M. of Montrose
John Hay, M. of Tweeddale
Wil. Carr, M. of Lothian
Wil. Johnston, M. of Annandale.

EARLS, 72.

John Lindsay, E. of Crawfurd

live suitably to the Reformed Religion, which they profess, submissively to our laws; decently and regularly with relation to the church established by law, as good Christians and subjects; and, in so doing, that they be protected in the peaceable possession of their religion, and in their persons and estates, according to the laws of the kingdom. And we recommend to the clergy of the established discipline their living in brotherly love and communion with such Dissenters.'

"Encouraged by these expressions, and the queen's repeated assurances that she would maintain the church of England, and even the least member of it, in all their just rights and privileges; the Episcopal clergy framed an address, to which with great pains and many indirect methods, they procured many subscriptions, and which was presented to the queen, the 13th of March, by Dr. Skeen and Dr. Scot, introduced by the duke of Queensberry (who nine days before had been appointed high-commissioner) and viscount Tarbat.

"The queen, in her answer, assured them of her protection, and endeavours to supply their necessities as far as conveniently she could, and recommended to them to live in peace and Christian love with the clergy, who were by law invested with the church-government in her ancient kingdom of Scotland.

"The next thing, which the enemies of the revolution improved to their advantage, was a proclamation of indemnity published by the queen, on the 6th of March, 1702-3. It was set up for a maxim by the new ministry, that all the Jacobites were to be invited home; and therefore the proclamation was of a very large extent, indemnifying all persons for all treasons committed before April last, without any limitation of time for their coming home to accept of this grace, and without demanding any security of them for the future. Upon this, considerable numbers of Jacobites came over to Scotland from St. Germain's and other parts of France, though they had forfeited their lives to the law by corresponding with the enemy, and practising against the government in king William's reign. Some of them pretended to be new converts, and together with others at home, who had stood out all king William's time, qualified themselves to sit in parliament by taking the oaths. The Anti-revolutioners, being proud of this accession of strength, thought themselves in a condition to prescribe terms to the government, and carried matters to an unaccountable height.

"This was the posture of affairs in Scotland, before and at the time, when the queen found it necessary to satisfy the nation by calling a new parliament. The Episcopal party thought themselves so secure of a majority, that they every where gave out, they should be able to vote down Presbytery, and to restore patronages, or at least to carry a toleration, so as their own clergy might be called to benefices, as well as the Presbyterians. Nor did their confidence terminate in humbling the Presbyterians of Scotland, but they flattered themselves also with the hopes of mortifying the Revolution-party of the Church of England; and this they were prompted to expect by a north-country clergymen, turned out in 1694 for refusing the oaths to king William, whom they had since employed as their agent at London, and who, upon the death of that prince, in a letter to those who employed him in Scotland, expressed himself thus. "The church of England was so much out of order during the late reign, that it will take some time to put matters right, which her majesty is firmly resolved to see to with all convenient haste." Thus they endeavoured to spread the belief, that the queen was their friend, while the greatest part of them not only refused to swear allegiance to her, but some of those who had taken the oaths, made no scruple openly to confess, that they swore to her only as a Tutrix or Regent, during the minority of her supposed brother. By this it appears, that the whole kingdom of Scotland was in a ferment at the sitting down of the parliament. The country-party (which took its rise from the affair of Darien, and had disputed the legality of the continuance of the convention-parliament) of which duke Hamilton and the marquis of Tweedale were the leaders, insisted upon the redress of those grievances, which the country laboured under in the former reign. The Presbyterians in general, and others of revolution principles, who were headed by the duke of Argyle, were alarmed at the bold proceedings of the Anti-revolutioners, of whom the earl of Hume was chief. This divided the country party among themselves; for, most of that party in the late reign being Revolution-men, they were jealous of the new accession of Anti-revolutioners; and therefore it was not possible for them to concert measures together. Their jealousies were heightened by new discoveries, which the anti-revolutioners had made of their sentiments in council and elsewhere: that they were against ratifying the several steps of the revolution, and the proceedings of king William's parliament on that head; but thought best to pass it over as a thing extraordinary and out of course; and alledged, that all parties might be safe enough under the shelter of her Majesty's general in-

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John Hay, E. of Errol
Wil. Keith, E. Marischall
Geo. Gordon, E. of Southerland
John Areskine, E. of Marr
——— Graham, E. of Monteith
John Leslie, E. of Rothes
Ja. Douglas, E. of Morton
David Erskine, E. of Buchan
Wil. Cunninghame, E. of Glencairn
Alex. Montgomery, E. of Eglinton
John Kennedie, E. of Cassils
John Sinclair, E. of Caithness
Charles Stuart, E. of Murray
Wil. Maxwel, E. of Nithsdale
George Seton, E. of Winton
G. Livingston, E. of Linlithgow
Charles Home, E. of Home
Ja. Drummond, E. of Perth
Wil. Fleming, E. of Wigton
John Lyon, E. of Strathmore
Tho. Hamilton, E. of Abercorn
John Ker, E. of Roxburgh
Alexander Ereskine, E. of Kellie
Tho. Hamilton, E. of Haddington
James Stuart, E. of Galloway
John Maitland, E. of Lauderdale
Wil. Mackenzie, E. of Seaforth
——— Hay, E. of Kinoul
Hugh Campbel, E. of Lowdon
——— Creichton, E. of Dumfries
——— Alexander, E. of Stirling
Tho. Bruce, E. of Elgine, (now Earl of Ailsbury)
James Carnagie, E. of Southesk
Cha. Stuart, E. of Traquair
——— Ker, E. of Ancrome
——— Weems, E. of Weems
Wil. Ramsay, E. of Dalhousie
James Ogilvie, E. of Airly
John Ogilvie, E. of Findlator
Robert Dalziel, E. of Carnwath
Geo. Livingston, E. of Callendar
David Leslie, E. of Leven
Lyonel Talmash, E. of Dysert
James Maul, E. of Panmure
Ch. Hamilton, E. of Selkirk
Da. Carnagie, E. of Northesk
Alex. Bruce, E. of Kincardine
Col. Linsay, E. of Balcarras
Archibald Douglas, E. of Forfar
Charles Gordon, E. of Aboyn
——— Livingston, E. of Newburgh
Wil. Boyd, E. of Kilmarnock
Wil. Cochran, E. of Dundonald
——— Douglas, E. of Dumbarton
John Keith, E. of Kintore
Geo. Campbel, E. of Broadalbin
George Gordon, E. of Aberdeen
Charles Murray, E. of Dunmore
George Melvil, E. of Melvil
Geo. Hamilton, E. of Orkney
John Hamilton, E. of Ruthglen
William Douglas, E. of March
Patrick Hume, E. of Marchmont
James Ogilvie, E. of Seafield
John Carmichel, E. of Hyndford
George Mackenzie, E. of Cromarty
John Dalrymple, E. of Stair
Arch. Primrose, E. of Roseberry
James Stuart, E. of Mount Stuart
Charles Hoptoun, E. of Hoptoun
David Boyle, E. of Glasgow

VISCOUNTS, 19.

Robert Carey, V. of Falkland
Edward Constable, V. of Dumbar
Edward Murray, V. of Stormont
Wil. Gordon, V. of Kenmure
Rob. Arbuthnet, V. of Arbuthnet
——— Creichton, V. of Frendraught
Arch. Seton, V. of Kingston
Robert Mackgil, V. of Oxenford
Arthur Ingram, V. of Irving
Ja. Livingston, V. of Kilsyth [of Leeds)
Thomas Osburn, V. of Dumblane, (now Duke
Wil. Cheney, V. of Newhaven
Ja. Drummond, V. of Strathallan
Thomas Livingston, V. of Teviot
Thomas Hay, V. of Duplin
John Crawford, V. of Kilbirny.

LORDS, 49.

Wil. Forbes, L. Forbes
——— Frazer, L. Salton
Patrick Gray, L. Gray
——— Stuart, L. Ochiltree
Allan Cathcart, L. Cathcart
Henry Sinclare, L. Sinclare
——— Douglas, L. Mordington
Francis Semple, L. Semple
John Elphingston, L. Elphingston
Charles Oliphant, L. Oliphant
——— Frazer, L. Lovat
——— Borthwick, L. Borthwick
Will. Ross, L. Ross
Wal. Sandilands, L. Trophichen
——— Lindsay, L. Spinzie
David Leslie, L. Lindors
John Elphingston, L. Balmerinoch
Walter Stuart, L. Blantyre
——— Ereskine, L. Cardross
Wil. Cranston, L. Cranston
——— Balfour, L. Burleigh
Wil. Carr, L. Jedburgh

demnity. The revolutioners knowing well, that according to the whole constitution of the kingdom, general pardons granted out of parliament afford but little safety, when questioned in parliament, despised the motion, and thought fit to leave those to plead the indemnity, who believed they needed it, but conceived themselves not to be of that number, and therefore resolved upon a parliamentary ratification of the revolution. This they judged to be the most effectual way to prevent after-blows from the opposite party, whose designs became more suspicious by their insisting on a dissolution of the garrison of Inverlochy, which was a great curb upon the Popish Highlanders, and rigid prelatists of the north, the great strength of the Anti-revolution party. In this disposition of affairs the parliament met at Edinburgh, the 6th day of May 1703." Tindal.

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——— Drummond, L. Madertie
——— Elphingston, L. Cowper
——— Napier, L. Napier
Thomas Fairfax, L. Cameron
——— Richardson, L. Cramond
——— Mackay, L. Rae
William Forrester, L. Forrester
Alexander Forbes, L. Pitsligo
——— Mackclenan, L. Kirkcudbright
Charles Frazer, L. Frazer
William Hamilton, L. Bargeny
George Ogilvie, L. Bamff
Patrick Murray, L. Elibank
David Falconer, L. Halkerton
John Hamilton, L. Belhaven
——— Sandilands, L. Abercrombie
James Sutherland, L. Duffus
Robert Rollo, L. Rollo
——— Colvil, L. Colvil
———Ruthven, L. Ruthven
———Rutherford, L. Rutherford
John Bellenden, L. Bellenden
——— Leslie, L. Newark
Wil. Nairn, L. Nairn
John Churchil, L. Eyemouth, now Duke of Marlborough
Francis Abercombie, L. Glasford
David Collier, L. Portmore.

OFFICERS OF STATE.

Geo. Mackenzie, E. of Cromarty, Lord Secretary
Sir James Murray, of Philiphaugh, Lord Register
Sir Ja. Stuart, of Goodtrees, Lord Advocat
David Boyl, E. of Glasgow, Lord Thesaurer deput
Mr. Roderick Mackenzie, of Prestonhal, Lord Justice Clerk

COMMISSIONERS FOR SHIRES, 85.

Edinburgh, 4.
Sir Robert Dundas of Arniston
Sir James Primrose of Carrington
Sir Robert Dickson of Inverask
George Lockhart of Carnwath.
Haddington, 4.
Sir John Lauder of Fountainhal
Andrew Fletcher of Salton
Wil. Nisbet of Dirleton
John Cockburn of Ormistoun the younger.
Berwick, 4.
Sir John Hume of Blackader
Sir Robert Sinclair of Longformacus
Sir Patrick Home of Lumsden
Sir John Swinton of that Ilk.
Roxburgh, 4.
Sir Wil. Ker of Greenhead
Sir Gilbert Eliot of Headshaw
Wil. Bennet of Grubit
Archbald Douglas of Cavers.
Selkirk, 2.
Mr. John Murray Advocat
Mr. John Pringle of Hainning.
Peebles, 2.
Alexander Horseburgh of that Ilk
Wil. Morison of Prestongrange.
Lanerk, 4.
Wil. Baillie of Lamington
George Baillie of Jerviswood
James Hamilton of Aikenhead
John Sinclair of Stevenson younger.
Drumfreis, 4.
Sir John Johnstoun of Westerhal
John Sharp of Hoddam
James Douglas of Dornock
Mr. Alexander Ferguson of Isle.
Wigton, 2.
Mr. John Stewart of Sorbie
Wil. Stewart of Castlestewart.
Air, 4.
Mr. Francis Montgomerie of Giffen
Hugh Cathcart of Carleton
Mr. Wil. Dalrymple of Glenmuir
John Crawford of Kilburnie.
Dumbriton, 2.
Mr. Wil. Cochran of Kilmaronock
Sir Humphry Colquhoun of Lass.
Bute, 2.
Sir James Stuart of Bute
Mr. Robert Stewart of Tiliculrie.
Renfrew, 3.
Mr. John Stewart of Blackhal
Sir John Houstoun of that Ilk
Robert Pollock of that Ilk.
Stirling, 3.
James Grahame of Bucklivie
John Grahame of Kilearn
Robert Rollo of Powhouse.
Linlithgow, 2.
Charles Hope of Hopetoun
Thomas Sharp of Houstoun.
Perth, 4.
Sir Patrick Murray of Auchtertyre
Mungo Graham of Gorthie
John Hadden of Glenagies
William Oliphant of Gask.
Kincardin, 2.
Sir Thomas Burnet of Leyes
Sir James Falconer of Phesdo.
Aberdeen, 4.
John Udney of that Ilk
James More of Stonywood
Wil. Seton of Pitmedden younger
John Gordon of Pitlurg.
Inverness, 2.
Lodovick Grant of that Ilk
Alexander Grant junior of that Ilk.
Nairn, 2.
Hugh Ross of Kilravock
Duncan Forbes of Colloden.
Cromarty, 2.
Kenneth Mackenzie of Cromarty
Æneas Macleod of Cathbol.
Argile, 3.
Sir James Campbel of Auchinbrake
Ja. Campbel younger of Arkinglas
Mr. John Campbel of Mamore.
Fife, 4.
Sir Wil. Anstruther of that Ilk
David Beathun of Balfour
Major Balfour of Dunbogue
Robert Douglas of Stranrie.
Forfar,
Mr. Pa. Lyon of Auchterhouse
David Graham of Fintrie

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Mr. Ja. Carnagie of Phinhaven
James Hailburton of Pitcur.
Bamff, 2.
Alexander Duff of Bracco
James Ogilvie junior of Boyne.
Stewartry of Kirkcudbright, 2.
John Murray of Brughton
Wil. Maxwel of Cardinnis.
Sutherland, 2.
Alexander Gordon of Gairty
David Sutherland younger, of Kinnald.
Caithness.
Sir George Sinclair of Clyth.
Elgin, 2.
James Brodie of that Ilk
Robert Dunbar of Grangehal.
Stewartry of Orkney.
Sir Archbald Stuart of Burray.
Clackmannan.

Ross, 2.
Alexander Mackenzie of Scatwell
Kenneth Mackenzie of Garloch.
Kinross,
Mr. John Bruce of Kinross.

COMMISSIONERS FOR THE BURGHS 67.

Edinburgh { Sir Patrick Johnston / Robert Inglis
Perth, Alexander Robertson
Dundee, John Scrimzeor
Aberdeen, John Allardice
Stirling, Captain John Erskine
Linlithgow, Walter Stuart of Pardovan
St. Andrews, John Watson of Aithernie
Glasgow, Hugh Montgomerie
Air, John Muir
Haddington,
Dysart, David Christie
Kirkaldy,
Montrose, James Scot of Logie
Couper, Bruce of Bunzion
Anstruther Easter, Sir John Anstruther
Drumfries, Robert Johnstoun
Inverness, Alexander Duff of Drumure
Bruntisland, Sir John Erskine of Alva
Inverkeitting, James Spitle of Leuchat
Kinghorn, Mr. James Melvil of Halhil
Breechen, Francis Molison
Irwing, Mr. Alexander Cunningham
Jedburgh, Walter Scot
Kirkudbright, Sir Andrew Hume
Wigton, Wil. Coltrain
Dumfermling, Sir James Halket
Pettenween, George Smith of Gibliston
Selkirk, Robert Scot
Dumbriton, Sir James Smollet
Renfrew, Colin Campbel of Woodside
Dumbar, Robert Kellie
Lanerk, Mr. Wil. Carmichael
Aberbrothock, John Hutchinson
Elgin, Mr. Wil. Sutherland
Peebles, Robert Scheil
Crail, George Moncreiff of Sauchop
Tayn, Captain Donald Macleod
Cutross, Sir David Dalrymple
Bamff, Sir Alexander Ogilvie of Forgland
Whithorn, Mr. Jo. Clark younger of Pennicook
Forfar, Mr. John Lyon
Rothesay, Mr. Dougal Stuart
Nairn, John Ross of Nuich
Forres, George Brodie of Aslisk
Rutherglen, George Spence
Northberwick, Sir Hugh Dalrymple
Anstruther Wester, Sir Robert Anstruther
Cullen, Mr. Patrick Ogilvie
Lauder, Sir David Cuninghem
Kintore, George Allardice of that Ilk
Annan, Mr. William Johnston
Lochmeban, Mr. John Carruthers
Sanquhar, William Alves
New-Galloway, Geo. Hume of Whitefield
Kilreny, Mr. James Bethun of Balfour
Fortrose, Mr. John Mackenzie of Assint
Dingwall, John Bain of Meldrum
Dornoch, John Urquhart of Meldrum
Queensferry, Sir Wil. Hamilton of Whitelaw
Inverary, Daniel Campbel
Inverary, Mr. Robert Forbes of Lerny
Wick. Mr. Robert Frazer
Kirkwal, Mr. Robert Douglas
Inverbervie, Mr. Alexander Arbuthnet
Stranraver, George Dalrymple
Cambleton, Mr. Charles Campbel.

Total, Lords	- - - - - - - -	153
Barons	- - - - - - - -	85
Burghers	- - - - - - - -	67
		305

The Queen's Letter.] The Duke of Queensberry, her majesty's Commissioner, having taken his seat on the throne, the Queen's Letter was read as follows:

"My Lords and Gentlemen; We thought to have brought you sooner together in this meeting of parliament, but the great and weighty affairs, wherein we have been engaged this winter, were a necessary hindrance.—We have on several occasions, given you and all our good subjects assurance of our firm resolution to maintain and protect them in their religion, rights and liberties, as at present established by law. And if there be any thing else wanting for the satisfaction of our people, and the security of that our ancient kingdom, we shall be always ready to have it timely provided for and supplied.—You see that we continue engaged in a great and necessary war for the defence of the Protestant Religion, and the preservation of the liberty of Christendom; and we hope you will be careful to guard against all dangers that this war may threaten; for which end, we recommend to you more particularly the consideration of the state of our forces, forts, and garrisons, that they be duly and sufficiently maintained, and the necessary supplies granted for that effect, and all kept in such order, as may be most conducing to the ease, as well as safety of the country.—We also recommend to your care, that trade be encouraged, and all methods taken for the advance-

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ment thereof, either by amending former laws, or making new ones, or any thing else that may be found needful and expedient for the benefit of the kingdom.—It hath been, and shall always be our chief study and endeavour, to establish and secure the peace, and promote the good of that our ancient kingdom; and therefore we do expect your concurrence and assistance for such good and great ends; and that you will prosecute them with that wisdom, prudence and unanimity, as may most tend to our common advantage and satisfaction; but chiefly, that effectual means may be laid down for promoting of religion, virtue and true piety, and suppressing vice and immorality, and providing for the poor.—We have appointed our right trusty and entirely beloved cousin and counsellor James duke of Queensberry, to be our commissioner, to represent our royal person in this session of parliament, being well satisfied that the experience that both we and you have had of his great abilities and fidelity in his former discharge of his trust, will fully commend our choice, and render him to you acceptable.—This being your first meeting, and we having recommended nothing but what is for your own security and welfare, we confidently expect a suitable return, and a dutiful and chearful concurrence in what we propose, and that, all differences and animosities laid aside, you will, with concord and diligence, bring matters to such a happy conclusion, as shall establish a lasting union between us and our people. So we bid you heartily farewell." —Given at our Court at St. James's the 30th day of March, 1703, and of our reign the second year."

The Lord High Commissioner's Speech.] The Lord High Commissioner, the duke of Queensberry, then made the following Speech:

"My Lords and Gentlemen; Her majesty has been graciously pleased to give ample and frequent assurances to maintain and protect the religion, laws and liberties of this her ancient kingdom, and the present constitution of the church: if any thing be wanting for the ease and satisfaction of her majesty's good subjects, I am sufficiently instructed and impowered in what may be thought expedient to be proposed for that end.—The close conjunction of the two monarchies, which in their turns have designed to enslave Europe and extirpate our religion, made it just and necessary for her majesty to be engaged in the war; and her early appearance gave life and vigour to the Confederacy, and particular encouragement to the Protestant princes and states. God has hitherto blessed the army of her majesty and her allies, with glorious success both by sea and land: So that there is a stop put to the victories, and a check given to the encroaching power of France. It cannot but be great satisfaction to us, to be under the benign government of a Protestant Queen: We enjoy the comforts of peace, and feel neither the effects of tyranny, nor the disorders of war, in which so many are involved; but we ought not to be too secure, and it were to tempt our enemies to form designs, or make insults against us, if they see us in no condition of defence. All her majesty proposes to you, is for yourselves, without mingling any particular concern of her own; it is to continue the provision for the forces on the establishment, and to furnish and repair the forts and garrisons; which is so necessary, that I cannot doubt of your ready compliance with her majesty's desires: and your chearfulness in it, will be very acceptable to her majesty, observable to the world, and a great evidence of your loyalty and affection, which will add much to the value of what you offer. The decay and present low condition of Trade requires your prudent and special consideration: her majesty on her part is willing to concur with you in any thing that may contribute to encourage and restore it, either by making new laws or amending the present ones.—My Lords and Gentlemen, It has pleased her majesty to honour me with a character to represent her royal person in this session of parliament; I am very sensible of the great weight and difficulties which do attend that trust, but my encouragement is from the confidence I have of her majesty's goodness, in believing my sincerity and zeal for her service, and that in her royal wisdom, she is so careful of her people, that I am not charged with any thing that can be constructed to be against the interest of the kingdom, which gives me assurance of your hearty concurrence, and I shall very faithfully report what services are done by every person to her majesty and the Nation."

The Lord High Chancellor's Speech.] The Lord High Chancellor, the earl of Seafield, spoke thus:

"My Lords and Gentlemen; Her Majesty's accession to the throne of her royal ancestors, is the great happiness of all her Majesty's dominions: She has ever firmly adhered to the Protestant Religion, and may justly be called the defender of the Protestant interest in Europe; and all who have had the honour to have more immediate access to her Majesty's person, or who have duly considered the whole steps of her Majesty's government, must be convinced, that it is her Majesty's chief design, to make all her subjects happy. You have heard her Majesty's most gracious Letter, and his grace my Lord Commissioner's Speech, and it must certainly give you who are the representatives of this kingdom, convened by her Majesty's authority, great satisfaction, that her Majesty does give you full assurance of her royal resolution, to maintain her people in the possession of their religion, of their laws and of their liberties; and has also frequently promised her protection to the government of the church: but if any thing be yet needful for the ease, contentment and satisfaction of her Majesty's subjects, her Majesty has given full instructions, as my Lord Commissioner has signified; so that nothing is wanting on her part, and nothing is proposed or demanded by her,

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but what is necessary for the security and prosperity of this kingdom.—Her Majesty is engaged in a most just and necessary war, for the defence of the liberties of Europe, against the formidable power of the French king; and as we are to be thankful to God for the success her Majesty's arms have had, so we ought to give her Majesty all the support and assistance in our power, it being so necessary for our own defence; and all that her Majesty demands is, that you provide for your own security, by giving such supplies, as may be further necessary for maintaining her Majesty's forces, and repairing and providing for the forts and garrisons, the doing of which will be a convincing proof of that intire union and confidence which is betwixt her Majesty and her people, and will be the most effectual means to disappoint the designs of our enemies, and to preserve the peace and tranquillity we now enjoy.—The trade of this kingdom does deserve your particular consideration, the advancing and improvement of it is the only mean to increase the wealth and riches of this nation, and in the doing of which you have full assurance of her Majesty's concurrence; our manufactories are very much improved, and ought to have all incouragement, but we have almost no foreign trade, and all our towns and incorporations are thereby much impoverished. You have now an opportunity of doing what you shall think necessary in this matter, either by amending laws that may be prejudicial to trade, or by making new ones, or reviving such as are in desuetude.—My Lords and, Gentlemen, Seeing her Majesty's chief care is to make all her subjects happy and contented, let us therefore in compliance with her Majesty's just demands, cordially and unanimously concur to support her Majesty's authority and government, to advance religion and true piety, to discourage vice and immorality, to promote and improve trade, and to do every thing that is necessary for the honour, interest and security of this kingdom, that so all may be concluded that comes before you, to the satisfaction of her Majesty, and the good and welfare of her people."

Proceedings on the Act for recognizing her Majesty.] This done, duke Hamilton, after a speech proper to the subject, offered the draught of a Bill, for Recognising her Majesty's undoubted Right and Title to the imperial Crown of Scotland, according to the declaration of the estates of the kingdom, containing the Claim of Right, which was received and read the first time, and a second reading unanimously ordered, the 15th of May, when the queen's advocate, sir James Stuart, offered an additional clause, "That it should be treason to quarrel her Majesty's right and title to the crown, or her exercise of the government from her actual entry to the same." This clause being read, it was urged by some, that it was dishonourable to her majesty, because it implied, that the house were giving her Majesty an indemnity for the actings and exercise of her power since her accession to the throne. It was answered, that the words meant only in general her majesty's right to exercise her power. To which it was replied, that, whatever was the meaning of those, who had offered the clause, yet the words could admit of no such meaning, unless either the last part of the clause was altered thus, 'her being in the exercise of the government.' To this it was again answered, in behalf of the clause, That by the late queen Mary's death, without heirs of her body, the right of succession came to the queen; upon the prospect of king William's death, seeing by the entail she was to succeed 'before any children' of his body. But that the exercise did never accrue to her till his actual death and her actual accession; and therefore it was proper not only 'to recognize her right to the succession;' but also 'to recognise her actual exercise,' and to secure it by a sanction of treason. To this it was replied by the duke of Hamilton's friends, that these rights spoken of did not import any other, than the apparent right of an heir before or after his immediate predecessor's death; the first of which naturally vanishes upon the existence of the second. That the act, as at first offered, fully recognized these and all manner of rights, which were or could be in her majesty's person; but that the clause now offered did most dishonourably superadd a ratification and sanction of her majesty's exercise, and must point at one of these three things: First, either it supposed, that there had been something lame and defective in her majesty's right and title above-mentioned, which had been since her actual succession, supplied by her majesty's acts, of administration and exercise, and therefore her exercise was proposed to be ratified towards validating her infirm title. But, as there was not the least defect in her majesty's right and title, therefore this clause was unnecessary and dangerous. That, in the second place, the clause insinuated, that her majesty, since her accession, had exercised some acts of administration; to indemnify which, a vote of this house seemed necessary. That, whatever might be charged upon the ministry, it was the highest indignity done to her majesty, to expose her exercise of her royal power to the least suspicion by such a clause. And, in the last place, no other reason could be given for the tenaciousness of the ministry in promoting a clause so dishonourable to the queen, but that they themselves must be conscious, that, contrary to law, they had been instrumental in advising her majesty, 'to exercise some acts of administration,' such as the calling together the late parliament, which had continued during all the 'time of the late reign,' and promoting in it some commission, laws, and powers, beyond the limitations, which determined the being, and circumscribed the power of that parliament: And, being sensible, that their advice might very justly rebound upon themselves: they shuffled in this dishonourable clause, hoping, 'under the name of her majesty's ex-

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ercise,' to shelter themselves: But that, whatever might become of this clause at this time it was hoped, that the wisdom of the house would, in due time, pass a censure on those advices, which were like to discompose her majesty's quiet, and endanger the welfare of the nation. The duke of Hamilton concluded with saying, 'That he had the honour of offering this act for recognizing her majesty's authority, right, and title; that he had been in hopes, that so dutiful an act would have passed the vote of this house with all imaginable cheerfulness; and that he was both sorry and surprised to find any thing thrown in, which could create the least demur in it; but let those answer for it, who were the authors.' After a long debate, it was again moved, that instead of the words, 'her exercise of the government,' the following words might be added, 'her being in the exercise of the government.' But, by the concurrence of the Cavaliers, it was carried by a considerable majority, that the clause brought in by the queen's advocate should be added to the act, which, on the 19th of May, was touched by the sceptre, and made a law; but, before that was done, duke Hamilton desired, 'That it should be remembered, that, at passing this act, it was expressly declared, that the meaning of the advocate's clause could affect only the queen's exercise of her government, and not the actings of her ministry: And that, therefore, whatever challenge might be given afterwards to the illegality of the actings of the late parliament, might not be considered as a violation of this act.

After the act had received the royal assent, the earl of Hume, who was one of those, that had qualified him since king William's death, presented the draught of an act for the supply, but, before it was read, the marquis of Tweedale said, that he had an Overture to make to the house, which he hoped would, by reason of its importance, be preferred to all other business. After some debate, it was agreed, that the Draught and Overture should both be read, provided, that nothing should be spoken to either. And accordingly the Act for supplying was read, as was afterwards the marquis of Tweedale's Overture 'for a resolve of parliament, that, before all other business, the parliament might proceed to make such conditions of government, and regulations in the constitution of this kingdom, to take place after the decease of her majesty and heirs of her body, as should be necessary for the preservation of their religion and liberty.' Both which overtures were ordered to lie on the table.

Proceedings on the Supply.] May 26. The commissioner from the throne informed the house, "That having now sat twenty days, he did not doubt but they were all convinced, that the present state of affairs required a competent supply for maintaining the army: That the act, offered a week before for that purpose, had ever since lain upon the table: Wherefore he desired, that it might be now read; and promised, that they should have full time afterwards allowed them to go upon other business." Notwithstanding this speech, it was moved, that, before the supply, the marquis of Tweedale's Overture should be taken into consideration. Upon this the debate turned into a competition, whether the Act of Supply, or the Overture, should first take place? In behalf of the Overture, was urged the great importance of it; and in behalf of the Supply, the necessity of it, and the commissioner's promise, that after the first reading of the supply-act, there should be time given for other business. To this a member answered, "That he had all the deference imaginable for the lord commissioner's assurances, and doubted not but the whole house had the same; but he doubted extremely, that his grace could be master of himself in that point. Who knows (added he) but that, after all his grace's good purposes, the treasurer of England may cause to adjourn the house, when he shall think fit, notwithstanding all the assurances which the ministry can give. It is too well felt, that the influence of foreign counsels, from one corner of the world or other, have determined Scots affairs for these many years; and there is no appearance of discontinuing these practices." He concluded, "That from the matter of this Overture might arise such settlements, as might make a Scots nation stand upon a Scots bottom: and therefore it was fit to prefer the consideration of it to any other business whatsoever."

Another member urged, upon the point of the abrupt adjournment of the parliament, "That it must still be fresh in every man's memory, that insults were made upon the sovereignty and independency of this nation, in the matter of their late trading company, both before their settlement in Darien by the legal actings of the Scots parliament, and by the scandalous memorials given in by the English resident at Hamburgh, most falsely representing the Scots company as private persons, having no authority: as also, by the said resident's using threatening denunciations and expressions against the Hamburghers, if they should enter into any trading society with them: And likewise, after that company was settled in Darien, by their most barbarous and inhuman execution of some proclamations issued out against them. That, whether these most injurious stretches were calculated really for the sake of an interest altogether foreign to this island, it was not proper here to dispute: but, that it was certain, that this had raised an insuperable jealousy in the Scots nation, which could not fail, some time or other, to break forth into consequences dangerous to both nations. And therefore he concurred with those noble and worthy members in promoting the Overture, from which he should expect, that some laws should be enacted towards regulating the administration and government at home, as might deliver a Scot's prince and ministry from foreign influence, and might thereby compose

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those hurtful jealousies, in all times coming, to the mutual peace and quiet of the whole island."

After several warm speeches and long debates, the house came to this resolve, 'That the parliament will proceed to make such acts, as are necessary or fit for securing our religion, liberty, and trade, before any act for supply, or any other business whatsoever.' Whereupon the marquis of Athol offered, an act for the security of the kingdom, in case of her majesty's decease. But, before it was read, the duke of Argyle offered his act, ratifying the late revolution, and all the acts following thereupon; Mr. Fletcher, of Salton, an act, containing several limitations upon the succession, after the death of her majesty, and the heirs of her body; the earl of Rothes, an act, that, after her majesty's death, and failing heirs of her body, no person coming to the crown of Scotland, being at the same time king or queen of England, should, as king or queen of Scotland, have power to make peace or war, without the consent of parliament; the earl of Marchmont, an act for securing the true Protestant religion and Presbyterian government; and sir Patrick Johnson, an act, allowing the importation of all sorts of wines, and other foreign liquors; All which acts were placed, and ordered to lie on the table.

Act of Toleration] June 1. 'An Act for Toleration to all Protestants, in the exercise of religious worship,' presented by the earl of Strathmore, being read, a strong representation was offered against it, in the name, and at the appointment of the late general assembly, which concluded with these words; 'That they were persuaded, that to enact a toleration for those of the Episcopal way (which God of his infinite mercy avert) would be to establish iniquity by a law, and would bring upon the promoters thereof, and their families, the dreadful guilt of all those sins and pernicious effects, that might ensue thereupon.' The promoters of the Toleration finding by this representation, that it was like to meet with great opposition, agreed not to insist upon it, lest thereby they should offend and lose many, who at present sided with them against the court.

Thus, not only all the hopes of the Episcopal party for a Toleration (which they had made no doubt of carrying) were entirely lost, and every thing relating to the Church continued in the same state in which it was during the late reign, but the Presbyterians got a new law in their favour, which gave them as firm a settlement, and as full a security as law could give. For, on the 3d of June, an act passed for preserving the true reformed Protestant religion, and confirming Presbyterian church government and discipline, by kirk sessions, presbyteries, provincial synods, and general assemblies, as agreeable to the word of God, and the only government of Christ's church within this kingdom.

Lockhart, in his Memoirs, says, many members argued against it, but none with more spirit than sir David Cunningham of Milcraig, who urged, that it was uncharitable to affirm, as this act did, that 'the Presbyterian government was the only Church of Christ.' To this the marquis of Lothian replied, 'That the clause was right, since he was sure the Presbyterian government was the best part of the Christian religion;' which raised great mirth in the house. However, the act passed; but it was evident, that the Presbyterian party was not so considerable as had been imagined; and that, if the queen had been as episcopal in Scotland as in England, she might easily have overturned Presbytery. For at this time the house consisted of about two hundred and forty members, thirty of whom voted against the act, and eighty-two were non-liquets, which last were all Episcopal, but chose to be silent, either because there was not then a formed design against Presbytery, or in order to please the court; so that, properly speaking, there was not a plurality of above sixteen voices for the act; among whom such, as the duke of Hamilton, the earl of Eglington, and many others, were no ways Presbyterians; so that, had the queen designed to introduce Episcopacy, it would not have been any hard task to have done it.

Act declaring the Meeting of the Estates to be a Parliament.] June 7. The Parliament proceeded to consider the duke of Argyle's act, which consisted of three clauses: For ratifying and perpetuating the first act of king William's parliament, that the three estates then met together were a lawful and free parliament: For declaring it high treason to disown the authority of that parliament, or to endeavour, by writing, or speaking, or other open act or deed, to alter or innovate the claim of right, or any article thereof. The two first clauses were agreed to without any opposition; but the third, relating to the claim of right, raised a very warm debate. It was alledged, that many libels had been spread, reflecting on the claim of right, and tending to unhinge the present happy settlement. To which it was answered, That there were standing laws by which the authors of such libels might be punished; but that the import of such a general and peremptory clause would be of most dangerous consequence: That it would fetter men in their common conversation, which; though never so innocent, might, by these words, 'endeavour 'by writing or speaking,' bring all the subjects, whether in the ministry or not, into daily snares; and, in short, that it would bind up the government, and the wisdom of the nation itself, in all succeeding ages, from making such alterations and reformations, as in course of time, and various circumstances of things, should be judged necessary. To this purpose James Moore of Stennywood said, That he was sure, and every body knew, that the shire of Aberdeen, which he had the honour to represent, was of episcopal persuasion; and if, after this act was passed, his countrymen should, in discharge of their own consciences, in a regular way address the sovereign or par-

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liament, which by the claim of right is the privilege of every subject, for a rectification of the present Presbyterian establishment, which, in his opinion, was neither infallible nor unalterable, he desired to know, whether such an address should import treason? To this, Sir William Hamilton, of Whitlow, answered, That indeed this act did not preclude addressing for a toleration; but he was of opinion, that if, after it was passed into a law, any person should own, that he thought Presbyterian government a wrong establishment, and that episcopacy ought to be restored, such a person was guilty of high-treason. This occasioned a long and warm debate, wherein the dangers that would arise from this act, both to the government and the subject, were fully laid open. However, the question for approving the act was carried in the affirmative, though there were sixty members against it, and many nonliquets, or silent members, and several of the country party who were Presbyterians; but all the ministry and their dependants went into it, except the marquis of Athol, the lord justice clerk, the lord viscount of Tarbat, and some of their and the lord-commissioner's friends, who at this time, began to break with the court, and join in a particular correspondence with the cavaliers.

Proceedings on the Act of Security.] From the 9th of June to the 30th, there was little done relating to the public, except the reading of the Act of Security, and reasoning upon the several clauses of it; on the 22d of June, there were four several overtures in form of Acts, for Security of the kingdom, presented and read, which were ordered to be printed for the information of the members.

Mr. Fletcher's Speech on presenting a Draught of the said Act.] That which was most taken notice of, and came nearest to the Act that the house agreed to, was the Draught given in by Mr. Fletcher of Salton, with the following speech upon it:

"My Lord Chancellor; Prejudice and opinion govern the world to the great distress and ruin of mankind: and though we daily find men so rational as to charm by the disinterested rectitude of their sentiments in all other things, yet when we touch upon any wrong opinion with which they have been early prepossessed, we find them more irrational than any thing in nature, and not only not to be convinced, but obstinately resolved not to hear any reason against it. These prejudices are yet stronger when they are taken up by great numbers of men, who confirm each other through the course of several generations, and seem to have their blood tainted, or, to speak more properly, their animal spirits influenced by them. Of these delusions, one of the strongest and most pernicious, has been a violent inclination in many men to extend the prerogative of the prince to an absolute and unlimited power. And though in limited monarchies all good men profess and declare themselves enemies to all tyrannical practices, yet many, even of these, are found ready to oppose such necessary limitations as might secure them from the tyrannical exercise of power in a prince, not only subject to all the infirmities of other men, but by the temptations arising from his power, to far greater. This humour has greatly increased in our nation, since the union of the crowns; and the slavish submissions, which have been made necessary to procure the favours of the court, have cherished and fomented a slavish principle. But I must take leave to put the representatives of this nation in mind, that no such principles were in this kingdom before the union of the crowns; and that no monarchy in Europe was more limited, nor any people more jealous of liberty than the Scots. These principles were first introduced among us after the union of the crowns, and the prerogative extended to the overthrow of our antient constitution, chiefly by the prelatical party; though the peevish, imprudent, and detestable conduct of the presbyterians, who opposed these principles only in others, drove many into them, gave them greater force, and rooted them more deeply in this nation. Should we not be ashamed to embrace opinions contrary to reason, and contrary to the sentiments, of our ancestors, merely upon account of the uncharitable and insupportable humour and ridiculous conduct of bigots of any sort? If then no such principles were in this nation, and the constitution of our government had greatly limited the prince's power before the union of the crowns; dare any man say he is a Scots-man, and refuse his consent to reduce the government of this nation, after the expiration of the intail, within the same limits as before that union? And if since the union of the crowns, every one sees that we stand in need of more limitations; will any man act in so direct an opposition to his own reason, and the undoubted interest of his country, as not to concur in limiting the government yet more than before the union, particularly by the addition of this so necessary limitation for which I am now speaking? My lord, these are such clear demonstrations of what we ought to do in such conjunctures, that all men of common ingenuity must be ashamed of entering into any other measures. Let us not then tread in the steps of mean and fawning priests of any sort, who are always disposed to place an absolute power in the prince, if he on his part will gratify their ambition, and by all means support their form of church government, to the persecution of all other men, who will not comply with their impositions. Let us begin where our ancestors left before the union of the crowns, and be for the future more jealous of our liberties, because there is more need. But I must take upon me to say, that he who is not for setting great limitations upon the power of the prince, particularly that for which I am speaking, in case we have the same king with England, can act by no principle, whether he be a presbyterian, prelatical, or prerogative-

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man, for the court of St. Germains, or that of Hanover; I say, he can act by no principle unless that of being a slave to the court of England for his own advantage. And therefore let not those who go under the name of prerogative-men cover themselves with the pretext of principles in this case; for such men are plainly for the prerogative of the English court over this nation, because this limitation is demanded only in case we come to have the same king with England."*

The following is the Act, as brought in by Mr. Fletcher:

ACT for the Security of the Kingdom.

'The estates of parliament considering, 'That when it shall please God to afflict this 'nation with the death of our sovereign lady 'the queen (whom God of his infinite mercy 'long preserve) if the same shall happen to be 'without heirs of her body, this kingdom may 'fall into great confusion and disorder before a 'successor can be declared. For preventing

* Andrew Fletcher of Saltoun, Scotland, was born in 1653. He was educated under bishop Burnet, and when in parliament he so strongly opposed the measures of the Court, that he was obliged to leave the country and go to Holland. He landed in the West of England with Monmouth, 1685, and afterwards fought against the Turks in the Hungarian Army. The Revolution restored him to his country, and he became a Commissioner to settle the government of Scotland. He died in London 1716. From his Works, which were published in 1732, the above Speeches are taken.

"Fletcher, (says lord Buchan,) made a manly noble appearance in that Convention, which met in Scotland, after the Revolution, for the settlement of the new government. The thought of England's domineering over Scotland was what his generous soul could not endure. The indignities and oppression which Scotland lay under galled him to the heart; so that in his learned and animated speeches, he exposed them with undaunted courage and pathetical eloquence."—In that great event, the Union, he performed essential service. He got the Act of Security passed, which declared that the two crowns should not pass to the same head, till Scotland was secured in her liberties, civil and religious. Therefore lord Godolphin was forced into the Union, to avoid a civil war after the queen's demise. Although Mr. Fletcher disapproved of some of the articles, and indeed of the whole frame of the Union; yet, as the Act of Security was his own work, he had all the merit of that important transaction. In the ardor of his political career, Mr. Fletcher forgot not the interests of his birth place. He esteemed the education of youth one of the noblest objects of government. On this subject he wrote a treatise, still extant, most characteristic of himself; and he established at Salton a foundation for the same purpose, of great utility while it lasted. This great man died at London in 1716, aged 66. His remains were conveyed to Scotland, and deposited in the family vault at Salton. "His political principles, says lord Buchan, were too high and refined, and his sentiments were too Roman, or rather, as I may now say, too Gallic, and too much in the odour of philosophical politics, to accept of the privilege granted by James 2's act of indemnity, to return to his country and estate, when under the dominion of disguised despotism sanctioned by a venal parliament." That Mr. Fletcher received neither honours nor emoluments from king William, may therefore in part be attributed to himself; a circumstance, however, that must add greatly to the lustre of his character. His uncomplying virtue, and the sternness of his principles, were ill calculated to conciliate courtly favour. He was so zealous an assertor of the liberties of the people, that he was too jealous of the growing power of all princes; in whom he thought ambition so natural, that he was not for trusting the best of kings with the power which ill ones might make use of against their subjects; He was of opinion that all princes were made by, and for the benefit of, the people; and that they should have no power but that of doing good. This, which made him oppose king Charles and invade king James, led him also to oppose the giving so much power to king William, whom he would never serve after his establishment. Mr. Fletcher was master of the English, Latin, Greek, French, and Italian languages; and well versed in history, the civil law, and all kinds of learning. In his travels, he had not only acquired considerable knowledge in the art of war, but also become versant in the respective interests of the several princes and states of Europe. In private life, he was affable to his friends, and free from all vice. He had a penetrating, clear, and lively apprehension; but is said to have been too much wedded to opinions, and impatient of contradiction. He possessed an uncommon elevation of mind, accompanied with a warmth of temper, which would not suffer him to brook an indignity from any rank of men, or in any place. Of this he exhibited a singular proof in the Scots parliament. The earl of Stair, secretary of state and minister for Scotland, having in the heat of debate used an improper expression against Mr. Fletcher, he seized him by his robe, and insisted upon public and immediate satisfaction. His lordship was obliged instantly to beg his pardon, in presence of parliament. Mr. Fletcher was by far the finest speaker in the parliament of Scotland: the earl of Stair alone rivalled him. The latter was famed for a splendid, the former for a close and nervous eloquence. He formed his style on the models of antiquity; and the small volume of his works, sir John Dalrymple observes, though imperfectly collected, is one of the very few classical compositions in the English language. "His speeches and his language," says lord Buchan, "will bear a comparison with the best

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'thereof, our sovereign lady, with advice and 'consent of the estates of parliament, statutes 'and ordains, That if at the foresaid time, any 'parliament or convention of estates shall be 'assembled, then the members of that parlia- 'ment or convention of estates shall take the

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speeches of the reign of queen Anne, the Augustan age of Great Britain, far superior to the metricious, inflated, metaphorical style of our modern orators."

The following character of Fletcher is preserved in his Works, and is there said to be taken from a MS. in the Library of the late Thomas Rawlinson, esq.

"Andrew Fletcher of Saltoun, is a gentleman of a good estate in Scotland, attended with the improvement of a good education. He was knight of the shire for Lothian to that parliament, where the duke of York was commissioner in the reign of king Charles II. and openly opposed the arbitrary designs of that prince, and the fatal Bill of Accession: which obliged him wisely to retire, first to England, and then to Holland.

"The duke of York could not forgive his behaviour in that parliament; they summoned him to appear at Edinburgh, which he not daring to do, was declared traitor, and his estate confiscated: he retired to Hungary, and served several campaigns under the duke of Lorrain: he returned to Holland after the death of king Charles II. and came over to England with the duke of Monmouth: had the misfortune to shoot the mayor of Lime after his landing; and on it returned again to Holland: and came over at the Revolution with the prince of Orange.

"He is so zealous an asserter of the liberties of the people, that he is too jealous of the growing power of all princes; in whom he thinks ambition so natural, that he is not for trusting the best of princes with the power which ill ones may make use of against the people: believes all princes were made by, and for the good of, the people; and thinks princes should have no power but that of doing good. This made him oppose king Charles; invade king James; and oppose the giving so much power to king William, whom he never would serve; nor does he ever come into the administration of this Queen: but stands up a stout pillar for the constitution of the parliament of Scotland.

"He is a gentleman steady in his principles, of nice honour, with abundance of learning: brave as the sword he wears, and bold as a lion: a sure friend, and an irreconcileable enemy; would lose his life readily to serve his country, and would not do a base thing to save it. His thoughts are large as to religion, and could never be brought within the bounds of any particular set. Nor will he be under the distinction of a Whig or Tory; saying, those names are used to cloak the knaves of both.

"His notions of government, however, are too fine spun, and can hardly be lived up to by men subject to the common frailties of nature; neither will he give allowance for extraordinary emergencies: witness the duke of Shrewsbury, with whom he had always been very intimate; yet the duke coming to be secretary of state a second time, purely to save his country, this gentleman would never be in common charity with him afterwards. And my lord Spencer, now lord Sunderland, for voting for the army, was used by that man much after the same manner.

"He hath wrote some very good things, but they are not published in his name: he hath a very good genius. A low, thin man, of a brown complexion, full of fire, with a stern, sour look, and fifty years old."

Lockhart in his Memoirs, (p. 68.) tells us, that "Andrew Fletcher of Saltoun, in the first part of his life, did improve himself to a great degree by reading and travelling: he was always a great admirer of both ancient and modern republics; and therefore the more displeased at some steps which he thought wrong in king Charles II's reign; whereby he drew upon himself the enmity of the ministers of that government; to avoid the evil consequences of which, he went abroad, during which time, his enemies malice still continuing, he was upon slight, frivolous pretences, summoned to appear before the privy-council; and their designs to ruin him being too apparent he was so enraged that he concurred, and came over with the duke of Monmouth, when he invaded England; upon which he was forfeited. Thereafter he came over with the prince of Orange; but that prince was not many months in England, till he saw his designs, and left him, and ever thereafter, hated, and appeared as much against him as any in the kingdom. Being elected a parliament-man in 1703, he shewed a sincere and honest inclination towards the honour and interest of his country. The thoughts of England's domineering over Scotland, was what his generous soul could not away with. The indignities and oppression Scotland lay under, galled him to the heart. So that in his learned and elaborate discourses, he exposed them with undaunted courage, and pathetical eloquence. He was blessed with a soul that hated and despised whatever was mean and unbecoming a gentleman; and was so stedfast to what he thought right, that no hazard nor advantage, no, not the universal empire, nor the gold of America, could tempt him to yield or desert it. And I may affirm, that in his life he never once pursued a measure with the prospect of any by-end to himself, no further than he judged it for the common benefit and advantage of his country. He was master of the English, Latin, Greek, French, and Italian languages; and well versed in history, the civil law, and all kinds of learning: and as he was universally accomplished, he employed his talents for the

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'administration of the government upon them: 'excepting those barons and boroughs, who at 'the foresaid time shall have any place or pen- 'sion, mediately or immediately of the crown: 'whose commissions are hereby declared to be 'void; and that new members shall be chosen 'in their place: But if there be no parliament 'or convention of estates actually assembled, 'then the members of the current parliament 'shall assemble with all possible diligence: 'And if there be no current parliament, then 'the members of the last dissolved parliament, 'or convention of estates, shall assemble in 'like manner: and in those two last cases, so 'soon as there shall be one hundred members 'met, in which number the barons and bo- 'roughs before-mentioned are not to be rec- 'koned, they shall take the administration of 'the government upon them: But neither 'they, nor the members of parliament, or con- 'vention of estates, if at the time foresaid as- 'sembled, shall proceed to the weighty affair 'of naming and declaring a successor, 'till 'twenty days after they have assumed the ad- 'ministration of the government: both that 'there may be time for all the other members 'to come to Edinburgh, which is hereby de- 'clared the place of their meeting, and for the 'elections of new barons and boroughs in place 'above-mentioned. But so soon as the 'twenty days are elapsed, then they shall pro- 'ceed to the publishing by proclamation the 'conditions of government, on which they will 'receive the successor to the imperial crown of 'this realm; which in the case only of our be- 'ing under the same king with England, are as 'follows.

'1. That elections shall be made at every 'Michaelmas head-court for a new parliament 'every year; to sit the first of November next 'following, and adjourn themselves from time 'to time, till next Michaelmas: That they 'chuse their own president, and that every 'thing shall be determined by ballotting, in 'place of voting.

'2. That so many lesser barons shall be 'added to the parliament, as there have been 'noblemen created since the last augmentation 'of the number of the barons; and that in 'all time coming, for every nobleman that 'shall be created, there shall be a baron added 'to the parliament.

'3. That no man have vote in parliament, 'but a nobleman or elected member.

'4. That the king shall give the sanction to 'all laws offered by the estates; and that the 'president of the parliament be impowered by 'his majesty to give the sanction in his absence, 'and have 10*l.* sterling a day salary.

'5. That a committee of one and thirty 'members, of which nine to be a quorum, 'chosen out of their own number, by every 'parliament, shall, during the intervals of par- 'liament, under the king, have the administra- 'tion of the government, be his council, and 'accountable to the next parliament; with 'power in extraordinary occasions, to call the 'parliament together: and that in the said 'council, all things be determined by ballotting 'in place of voting.

'6. That the king without consent of parlia- 'ment shall not have the power of making 'peace and war; or that of concluding any 'treaty with any other state or potentate.

'7. That all places and offices, both civil 'and military, and all pensions formerly con- 'ferred by our kings, shall ever after be given 'by parliament.

8. 'That no regiment or company of horse 'foot, or dragoons be kept on foot in peace or 'war, but by consent of parliament.

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good of mankind. He was a strict and nice observer of all the points of honour, and his word sacred, as brave as his sword; and had some experience in the art of war, having in his younger years been some time a volunteer in both the land and sea service. In his travels he had studied, and came to understand the respective interests of the several princes and states of Europe. In his private conversation affable to his friends, (but could not endure to converse with those he thought enemies to their country) and free of all manner of vice. He had a penetrating, clear and lively apprehension: but so extremely wedded to his own opinions, that there were few (and those too must be his beloved friends, and of whom he had a good opinion) he could endure to reason against him; and did for the most part so closely and unalterably adhere to what he advanced, (which was frequently very singular) that he would break with his party before he would alter the least jot of his schemes and maxims: and therefore it was impossible that any set of men, that did not give up themselves to be absolutely directed by him, to please him, so as to carry him along in all points. And thence it came to pass, that he often in the parliament stuck close to the country party, and was their Cicero. He was, no doubt, an enemy to all monarchical governments; at least thought they wanted to be much reformed: but I do very well believe his aversion to the English and the Union was so great, in revenge to them, he would have sided with the royal family; but as that was a subject not fit to be entered upon with him, this is only a conjecture from some innuendos I have heard him make: but so far is certain, he liked, commended, and conversed with high-flying Tories, more than any other set of men, acknowledging them to be the best countrymen, and of most honour, integrity, and ingenuity. To sum up all; he was a learned, gallant, honest, and every other way well accomplished gentleman: and if ever a man proposes to serve and merit well of his country, let him place his courage, zeal, and constancy as a pattern before him; and think himself sufficiently applauded and rewarded, if he obtain the character of being like Andrew Fletcher of Saltoun."

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9. 'That all the fencible men of the nation, 'betwixt sixty and sixteen, be with alldiligence 'possible armed with bayonets, and firelocks all 'of a calibre, and continue always provided in 'such arms with ammunition suitable.

10. 'That no general indemnity, nor pardon 'for any transgression against the public, shall 'be valid without consent of parliament.

'11. 'That the fifteen senators of the col-'lege of justice shall be incapable of being 'members of parliament, or of any other office, 'or any pension: but the salary that belongs 'to their place to be increased as the parlia-'ment shall think fit: that the office of presi-'dent shall be in three of their number to be 'named by parliament, and that there be no 'extraordinary lords. And also, that the lords 'of the justice court shall be distinct from 'those of the session, and under the same re-'strictions.

12. 'That if any king break in upon any of 'these conditions of government, he shall by 'the estates be declared to have forfeited the 'crown.

'Which proclamation made, they are to go 'on to the naming and declaring a successor: 'and when he is declared, if present, are to 'read to him the claim of right and conditions 'of government abovementioned, and to desire 'of him, that he may accept the crown ac-'cordingly; and he accepting, they are to ad-'minister to him the oath of coronation: but 'if the successor be not present, they are to de-'legate such of their own number as they 'shall think fit, to see the same performed, as 'said is: and are to continue in the adminis-'tration of the government, until the successor 'his accepting of the crown, upon the foresaid 'terms be known to them: whereupon hav-'ing then a king upon their head, they shall 'by his authority declare themselves a parlia-'ment, and proceed to the doing of whatever 'shall be thought expedient for the welfare of 'the realm. And it is likewise by the authority 'aforesaid declared, that if her present majesty 'shall think fit, during her own time, with ad-'vice and consent of the estates of parliament, 'failing heirs of her body, to declare a 'successor, yet nevertheless, after her Majes-'ty's decease, the members of parliament or 'convention shall in the several cases, and 'after the manner above-specified, meet 'and admit the successor to the govern-'ment, in the terms and after the manner as 'said is. And it is hereby further declared, 'that after the decease of her Majesty, 'and failing heirs of her body, the foremen-'tioned manner and method shall in the se-'veral cases be that of declaring and admitting 'to the government all those who shall here-'after succeed to the imperial crown of this 'realm: and that it shall be high treason for 'any man to own or acknowledge any person 'as king or queen of this realm, till they are de-'clared and admitted in the abovementioned 'manner. And lastly, it is hereby declared, 'that by the death of her Majesty, or any of 'her successors, all commissions, both civil and 'military, fall and are void. And that this 'act shall come in place of the seventeenth act 'of the sixth session of King William's par-'liament. And all acts and laws, that any 'way derogate from this present act are 'hereby in so far declared void and abrogated.'

Mr. *Fletcher* also made the following speech in defence of the Limitation he proposed.

"My Lord Chancellor; it is the utmost height of human prudence to see and embrace every favourable opportunity: and if a word spoken in season does for the most part produce wonderful effects, of what consequence and advantage must it be to a nation in deliberations of the highest moment; in occasions, when past, for ever irretrievable, to enter into the right path, and take hold of the golden opportunity, which makes the most arduous things easy, and without which the most inconsiderable may put a stop to all our affairs? We have this day an opportunity in our hands which if we manage to the advantage of the nation we have the honour to represent, we may, so far as the vicissitude and uncertainty of human affairs will permit, be for many ages easy and happy. But if we despise or neglect this occasion, we have voted our perpetual dependance on another nation. If men could always retain those just impressions of things they at some times have upon their minds, they would be much more steady in their actions. And as I may boldly say, that no man is to be found in this house, who at some time or other has not had that just sense of the miserable condition to which this nation is reduced by a dependance upon the English court, I should demand no more but the like impressions at this time to pass all the limitations mentioned in the draught of an act I have already brought into this house; since they are not limitations upon any prince, who shall only be king of Scotland, nor do any way tend to separate us from England; but calculated merely to this end, that so long as we continue to be under the same prince with our neighbour nation, we may be free from the influence of English councils and ministers; that the nation may not be impoverished by an expensive attendance at court, and that the force and exercise of our government may be, as far as is possible, within ourselves. By which means, trade, manufactures, and husbandry will flourish, and the affairs of the nation be no longer neglected, as they have been hitherto. These are the ends to which all the limitations are directed, that English councils may not hinder the acts of our parliaments from receiving the royal assent: that we may not be engaged without our consent in the quarrels they may have with other nations; that they may not obstruct the meeting of our parliaments, nor interrupt their sitting; that we may not stand in need of posting to London for places and pensions, by which, whatever particular men may get, the nation must

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always be a loser, nor apply for the remedies of our grievances to a court, where for the most part none are to be had. On the contrary, if these conditions of government be enacted, our constitution will be amended, and our grievances be easily redressed by a due execution of our own laws, which to this day we have never been able to obtain. The best and wisest men in England will be glad to hear that these limitations are settled by us. For though the ambition of courtiers lead them to desire an uncontrolable power at any rate; yet wiser men will consider that when two nations live under the same prince, the condition of one cannot be made intolerable, but a separation must inevitably follow, which will be dangerous if not destructive to both. The senate of Rome wisely determined in the business of the Privernates, that all people would take hold of the first opportunity to free themselves from an uneasy condition; that no peace could be lasting, in which both parties did not find their account; and that no alliance was strong enough to keep two nations in amity, if the condition of either were made worse by it. For my own part, my lord Chancellor, before I will consent to continue in our present miserable and languishing condition after the decease of her majesty, and heirs of her body failing, I shall rather give my vote for a separation from England at any rate. I hope no man who is now possessed of an office, will take umbrage at these conditions of government, though some of them seem to diminish, and others do entirely suppress the place he possesses: for besides the scandal of preferring a private interest before that of our country, these limitations are not to take place immediately. The Queen is yet young, and by the grace of God may live many years, I hope longer than all those she has placed in any trust; and should we not be happy, if those who for the future may design to recommend themselves for any office, could not do it by any other way than the favour of this house, which they who appear for these conditions will deserve in a more eminent degree? Would we rather court an English minister for a place than a parliament of Scotland? Are we afraid of being taken out of the hands of English courtiers, and left to govern ourselves? And do we doubt whether an English ministry, or a Scots parliament will be most for the interest of Scotland? But that which seems most difficult in this question, and in which, if satisfaction be given, I hope no man will pretend to be dissatisfied with these limitations, is the interest of a king of Great Britain. And here I shall take liberty to say, that as the limitations do no way affect any prince that may be king of Scotland only, so they will be found highly advantageous to a king of Great Britain. Some of our late kings, when they have been perplexed about the affairs of Scotland, did let fall such expressions, as intimated they thought them not worth their application. And indeed we ought not to wonder if princes, like other men, should grow weary of toiling where they find no advantage. But to set this affair in a true light: I desire to know, whether it can be more advantageous to a king of Great Britain to have an unlimited prerogative over this country in our present ill condition, which turns to no account, than that this nation grown rich and powerful under these conditions of government, should be able upon any emergency to furnish a good body of land forces, with a squadron of ships for war, all paid by ourselves, to assist his majesty in the wars he may undertake for the defence of the protestant religion and liberties of Europe. Now since I hope I have shewn, that those who are for the prerogative of the kings of Scotland, and all those who are possessed of places at this time, together with the whole English nation, as well as a king of Great Britain, have cause to be satisfied with these regulations of government, I would know what difficulty can remain; unless that being accustomed to live in a dependency and unacquainted with liberty, we know not so much as the meaning of the word; nor if that should be explained to us, can ever persuade ourselves we shall obtain the thing, though we have it in our power by a few votes to set ourselves and our posterity free. To say that this will stop at the royal assent, is a suggestion disrespectful to her majesty, and which ought neither to be mentioned in parliament, nor be considered by any member of this house. And were this a proper time, I am confident I could say such things as being represented to the queen, would convince her, that no person can have greater interest, nor obtain more lasting honour by the enacting of these conditions of government, than her majesty. And if the nation be assisted in this exigency by the good offices of his grace the high commissioner, I shall not doubt to affirm, that in procuring this blessing to our country from her majesty, he will do more for us, than all the great men of that noble family, of which he is descended, ever did; though it seems to have been their peculiar province for divers ages, to defend the liberties of this nation against the power of the English and the deceit of courtiers. What further arguments can I use to persuade this house to enact these limitations, and embrace this occasion, which we have so little deserved? I might bring many; but the most proper and effectual to persuade all, I take to be this: that our ancestors did enjoy the most essential liberties contained in the act I have proposed: and though some few of less moment are among them which they had not, yet they were in possession of divers others not contained in these articles: that they enjoyed these privileges when they were separated from England, had their prince living among them, and consequently stood not in so great need of these limitations. Now since we have been under the same prince with England, and therefore stand in the greatest need of them, we have not only neglected to make a due provision of that kind, but in divers parliaments have given away our liberties, and upon the

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matter subjected this crown to the court of England: and are become so accustomed to depend on them, that we seem to doubt whether we shall lay hold of this happy opportunity to resume our freedom. If nothing else will move us, at least let us not act in opposition to the light of our own reason and conscience, which daily represents to us the ill constitution of our government; the low condition into which we are sunk, and the extreme poverty, distress, and misery of our people. Let us consider whether we will have the nation continue in these deplorable circumstances, and lose this opportunity of bringing freedom and plenty among us. Sure the heart of every honest man must bleed daily, to see the misery in which our commons and even many of our gentry live; which has no other cause but the ill constitution of our government, and our bad government no other root, but our dependence upon the court of England. If our kings lived among us, it would not be strange to find these limitations rejected. It is not the prerogative of a king of Scotland I would diminish, but the prerogative of English ministers over this nation. To conclude, these conditions of government being either such as our ancestors enjoyed, or principally directed to cut off our dependence on an English court, and not to take place during the life of the queen; he who refuses his consent to them, whatever he may be by birth, cannot sure be a Scots-man by affection. This will be a true test to distinguish, not whig from tory, presbyterian from episcopal, Hanover from St. Germains, nor yet a courtier from a man out of place; but a proper test to distinguish a friend from an enemy to his country. And indeed we are spilt into so many parties, and cover ourselves with so many false pretexts, that such a test seems necessary to bring us into the light, and shew every man in his own colours. In a word, my lord Chancellor, we are to consider, that though we suffer under many grievances, yet our dependence upon the court of England is the cause of all, comprehends them all, and is the band that ties up the bundle. If we break this, they will all drop and fall to the ground: if not, this band will straiten us more and more, till we shall be no longer a people. I therefore humbly propose, That for the security of our religion, liberty, and trade these limitations be declared by a resolution of this house to be the conditions upon which the nation will receive a successor to the crown of this realm after the decease of her present majesty, and failing heirs of her body, in case the said successor shall be also king or queen of England."

Lord Belhaven's Speech on the said Act.] The lord *Belhaven* made the following Speech on the Act for Security of the kingdom, in case of the Queen's death:

"My Lord Chancellor; We are now upon an act of the last consequence, it is an Act for the Security of the kingdom in case of the Queen's death. I hear it proposed by a noble earl on the other side, that this act should have the same narrative with the act 1696. But I would have it considered, that our circumstances are much changed since that time: we had then both a king and successor in being; now our happiness and the welfare of this kingdom, doth solely depend upon the life of our most gracious and excellent queen (whom God long preserve for a blessing to this nation.) It is from her bounty to this her ancient kingdom, that we hope to bring this excellent and useful law to perfection; therefore, my lord, in my humble opinion, the best narrative can be given to this act is, to set things in their true light before this honourable house, with relation to the circumstances of this nation as at present, and as it hath been this century of years by past, ever since the union of the two crowns under one monarch.

"If we consider, my lord, our present circumstances, we are a divided people amongst ourselves, divided and separated in our interests and circumstances from all Europe besides; we have no treaties, no alliances with any of the states or potentates of Europe; yea, we have little or no trade, commerce or correspondence abroad, our military corps serve abroad without post, name, or cartel, and are rather like to the Israelites service in Egypt, than that of a free independent nation assisting their neighbours: but, above all, my lord, we are under that singular speciality, that we know not who shall reign over us, neither have we any particular law, pointing out, or directing us what to do when that melancholy day comes, that we shall be so miserable as to lose the best of queens, yea, the best of sovereigns.

"These, my lord, are our present circumstances, and I am sure they are so unfavourable, provoking and melancholy, that they deserve both the time and thoughts of this honourable house, to find out an adequate remedy for them; especially when we are encouraged to it by her majesty's gracious letter to this parliament, impowering us to make, alter, or amend what laws may tend to the benefit of the nation.

"Let us then go on, my lord, with that unanimity becomes us, in the treating of so weighty an affair: this is the concern of a nation, and of a nation that hath been under a sensible decay and consumption for this hundred years by past, and is now become so very weak and debilitated, that it hath scarce strength to endure a cure.

"If we do but consider the ruins of our royal burrows, we may see what a vast decay we have suffered in trade, in a century which may justly be called the century of trade, or the trading age; if we will but consult the histories of Europe, and of our own nation, we will find the share and figure we bore in the affairs of Europe, with respect, and in proportion to other potentates and states the preceding century, vastly fallen in this: what a figure makes Sweden, Denmark, Switzerland, Savoy, Portu-

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gal, Tuscany in the world now, with whom we were more than equal formerly; but above all, the estates of Holland have improved that day to the best advantage, and to their own grandeur, power and glory.

"It is true, my lord, if we consider England and Spain, that although they have made the greatest advances in trade and plantations, and have had kingdoms and provinces both in Europe and America made subject to their respective monarchs, yet their power for all these advantages seems to be lessened from what it was formerly, when Spain grasped at the fifth monarchy, and England at the conquest of France; and to speak truth, I can see no reason why it should be so, considering that money is the natural product of the dominions of the one, and that the riches of the other by trade, are so greatly increased, save that neither of them have encouraged their fellow subjects, with these necessary immunities and privileges as the wise Romans used to do; but, on the contrary, they have made their yoke so uneasy, that it hath pleased God to single out these two nations from the bulk of Europe from making any advances in power proportionable to what they have done in trade; and, my lord, I must say, this appears to be the finger of God, that they may see their sins in their punishment.

"From what I have said, my lord, it is evident that this nation is labouring under some fundamental error, with relation to its constitution, ever since the union of the two crowns, which our predecessors were not aware of at first, and their successors have never been able to rectify since, because our more prudent neighbours and fellow subjects have always made it their business to run cross to us in that point; this is demonstrable from our own history and acts of Parliament, from which I shall, as succinctly and distinctly as I can, shew the several opportunities our predecessors had to rectify their constitution, as also the ways and means our wise and prudent neighbours took to prevent it.

"The prudent foresight of Henry 7, the restless endeavours of Henry 8, and Edward 6, to bring Scotland under the same monarch with England, had not the desired and long-looked for effect until the death of queen Elizabeth.

"It is a matter of admiration, that during the forty years reign of that illustrious queen, our predecessors, so far as I can learn, had never so much as under their consideration, how necessary it was to have their constitution rectified, in case of our monarch's residence in England: sure they had dear bought experience of her itch of government, and of her undue intermeddling in the affairs of Scotland, and that by supporting sometimes one party, sometimes another, as she found it necessary; and which was most unaccountable of all, by her allowing her own nearest kinswoman, queen Mary; the mother of our king, the then apparent heir to both kingdoms, to be arraigned, condemned and executed as a subject of England; but I am apt to think our predecessors have been much in the like case with the Israelites wandering in the wilderness, who, though they suffered much, their hearts were still kept up with the expectations of possessing a land flowing with milk and honey at the last: they thought to have been sharers with their king in the government of England, but they counted without their host; whatever may be in this, my lord, the plain reason of all this neglect of our predecessors came from the divisions among themselves, which was industriously fomented amongst them, by the English agents at that time: it was that which lost us that golden opportunity, I pray God, it do not so now.

"Upon king James's accession to the throne of England, our predecessors, though they were numerous, and did possess many considerable offices at court, yet they found they had overseen their interest and the interest of the nation, by not making such conditions of government, and rectifications of their constitution, as might have preserved the sovereignty and independence of their nation, they found that the powers and riches of England far exceeded that of Scotland, that their king's residence in England, would draw there a constant concourse of their nobility, and consequently the Scots money must be expended there; thus like Scotsmen wise behind hand, they endeavoured to retrieve it the best way they could, and to engage king James to allow them liberty to take the rectification of their constitution, in their present circumstances, under consideration; but our prudent neighbours were so wise as to foresee the consequences of it, which they were resolved to obviate, therefore they persuaded the king to propose an Union of the two kingdoms, accordingly a parliament was called at Perth in the 1604 year of God, and that the design might appear more solemn and real, it is called for that very end, for we find in our acts of parliament, that there was nothing else done in that parliament; they were also allowed to name their own commissioners, that the least shadow of jealousy might be removed: the narrative of the act impowering the commissioners to treat about the Union of the two kingdoms, makes clear the design our predecessors had of reserving the sovereignty and independency of their nation, which they saw was in great danger by the absence of their king; for it says, 'The king vouchsafes to assure them of his sincere disposition and clear meaning, no way by the said union to prejudge or hurt the fundamental laws, ancient privileges, offices, and liberties of the kingdom, which, if innovate, could no more be a free monarchy.' What the consequence of this Union was, is well known, it was only an amusement, and ended in an unconsiderable tariff of trade betwixt the two nations, and small as it was, it was thought too considerable for us to have, and therefore the English resiled.

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"The next method our prudent fellow subjects take, to influence our government, so as we might not be able for the future to rectify our constitution, was to extend the prerogative; they judged well enough, that if our king have a large prerogative, that his residing among them would make them masters of that, therefore a parliament is called in the 1606 year of God, and the very first act is anent the king's royal prerogative. The narrative, which is the *Ratio Legis*, runs thus, 'That since our king is now king of the renowned kingdoms of England, France and Ireland, whilks very far surpasseth the wealth, power and force of the dominions of any of his primo-genitors, kings of Scotland, for discharge whereof, God hath endued his majesty with sua many extraordinar graces and maist rair and excellent vertues, and that God having manifestly expressed his heavenly will to be, that his majesty's imperial power, whilk God hath sua graciously enlarged, shall not be deminished, but rather reverenced and augmented; therefore his soveraign authority, princely power, royal prerogative and priviledge of his crown, is largely extended over all estates, &c.' All I shall observe from this, my lord, is, That we may clearly see from whence this came, when at the same time there was no such extending of prerogative with relation to England.

"The second act of the same parliament is for restoring the estate of bishops, and the reason of that law is, because 'They are sua far necessar fundaments and pillars for maintaining the authority of princes, &c.' Therefore, &c.

"Before I proceed further, my lord, I shall once for all observe, that an Union, the Prerogative, and state of Bishops, are the three handles our prudent and potent neighbours have made use of, for these hundred years by past, to draw to them the sole power of influencing the government of our nation, and of preventing of the rectification of its constitution from time to time, and so I go on.

"In 1607, 1609, and 1612 years of God we had parliaments which were only employed in advancing the Episcopal government, as appears by the acts thereof, in favours of deans and chapters, teinds and other Ecclesiastical benefices.

"But in the year 1617, my lord, our good old king must be persuaded to make us a visit, and hold a parliament himself, where the *congé d'elire*, was establish'd, they were afraid that the Scots bishops might in time come to kick against them, and smell their design; Therefore the king must have a finger in that pye too.

"But the main design of that journey, was to prepare the members of the general assembly to a more close union with the English in their Religious Worship; and this was done so effectually, that in the 1618th year of God, the five Articles commonly called the Five Articles of Perth, past in a general assembly kept there, though not without great struggle; and this was ratified afterwards in the parliament 21st, which was the last of king James's Parliaments.

"My lord, king James dies in the 1625 year of God. His son king Charles 1, no sooner ascends the throne, but he is applyed to by Archbishop Laud, who tells him, that the endeavouring to bring Scotland into an uniformity with England in their method of religious worship, is not to be done by the slow tedious way of Parliaments; that he must take larger steps, his prerogative being much greater than any of his predecessors, and especially in church affairs. Therefore he may send them down a liturgy: he may order their habits; and that it was very fit, both upon a' political as well as religious consideration, to teach the rude Scots to serve God in a more decent and splendid manner. This, my lord, was too easily condescended to by that religious prince; a liturgy is made and sent down, with other religious habits: what the consequences were, is too well known to be repeated; only with all deference to that learned prelate the adviser: It is evident he was als bad a counsellor to the father, as father Peters proved afterwards to the son.

"I come now, my lord, to the year 1641, which afforded us an excellent opportunity for rectifying of our constitution, and it appears by the acts of that time, that our predecessors were then falling to it in good earnest: they had had so recent an instance of their being invaded by force, when other means failed. But alas, they mistook their measures; for if they had at that time roundly and soundly rectified their constitution, and gone into the assistance of their lawful king, as they did to that of the English parliament, we might at this time have been reaping the benefit of it more ways than one; for, in common reasoning it is no policy to aggrandize a nation, that is by far our superior, and who have always shewed an inclination, both by writing and otherways, to grasp at our sovereignty. But though we acted most foolishly, yet our prudent and potent neighbours knew very well how to play their game; and seeing at that time, that they could not bring us up to their religious worship; no matter what it be, providing they have an influence in our affairs. They will complement us; and they will follow our manner of worship, and lest we should doubt the sincerity of their intentions by so sudden a change, they, good people, will give us a most solemn League and Covenant for our further security: thus we were catched.

"My lord, The next period is that of the 1660th year of God, when we called home the righteous heir king Charles 2; at that time also, we lost an excellent opportunity to rectify our constitution; then our prudent adversaries (for at that time we were in war with them) set all their engines at work, to break us among ourselves, and so to hinder us to unite amongst ourselves and with our young king, upon a solid foundation; and though they were laughing at the solemn League and Covenant, and calling

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it an old Almanack, yet at the very same time they were telling us, that we had no security from our young king, unless he and all about him took the national Covenant: This they knew would divide us effectually. And it is really very strange to consider how easily our predecessors were deluded, and thereby lost that opportunity, where they might have done so great things for their king, country and religion, as it was then established; and which in all probability would not have missed of a favourable event, if we had not sit in our own light.

"What was the consequence of all this, my lord? This our neglect makes our enemies successful, our endeavours for our young king prove unsuccessful, and we in a manner totally subjected to them, both in our civil and religious concerns, and continued so till the 1660th year of God.

"In the 1660th year of God, king Charles is restored, and our old prudent neighbours saw the scene was changed, yet they were very unwilling to let go their hold of sovereignty over us; they were willing to keep what *vis & modis* they had got, therefore they had advised our gracious king to continue us in the same condition we were then in: That is to say, as a province depending upon England. The unreasonableness of this proposal, my lord, may show how much people are blinded with their own interest, that we, who had been the first who saw our errors, who protested against the king's trial, sentence and execution, who had raised an army for his liberation when prisoner in the Isle of Wight, who had recalled and crowned his son, who had invaded England under his conduct for restoring him to his father's kingdoms, and for doing whereof, we had brought upon us and our nation, all the calamities of war, bondage and servitude, forts and castles built to keep us in subjection, and a standing army of ten thousand men kept a foot upon us: a number sufficient to have kept in subjection the whole island. I say, my lord, that after all this, to think that any person should have dared to make such a proposition to a king who knew the truth of this so well, seems to me, to have been the height of impudence, to say no worse. And yet, my lord, this was done; I have very good vouchers for it, and general Monk was the principal counsellor thereof, though by our counsel and assistance he was enabled to accomplish that glorious design for his Majesty's restoration.

"But blessed be God, the proposal was both abhorred and rejected by our gracious king: and then being thus disappointed, they fall to their old trade again, bishops must be restored, the prerogative must be extended, and we must not want the amusement of an Union: but above all, and before all, the grievous acts, of 1641, must be rescinded, and that with a stigma, as may be seen by the narrative of the act rescissory: the truth is, they were too opposite to their designs to be continued.

"My lord, I must observe, That from 1660 to 1689, there was nothing, saving the *Jus Divinum* of kings, non-resistance and passive obedience, preached up by the clergy of both kingdoms. I conceive that the memory of the troubles might afford some occasions for this doctrine; but when people go once off the solid foundation and fundamental constitution of a limited monarchy, be it upon never so good grounds, the consequences generally prove fatal, even to the monarch himself, in whose favours such things are pretended, and sometimes really designed.

"It fell out so during this period of time, our preachers strained their eloquence to persuade the people to that which is so far contrary to human reason, that it cannot be so much as the subject matter of faith, viz. That kings come down from heaven, as the image of Diana came down to the temple of Ephesus: It is true, interest, and particular views, may make people appear to relish and believe such a doctrine, as it did Demetrius and his silversmiths: this, I must say, my lord, is the worst service can be done princes: experience shows, That people generally deceive their deceivers as to that point, and the monarch must suffer for all at long run; for when these preachers and people came to be touched themselves, then nothing but religion and all is in danger, and therefore in the year 1689, then then the prince of Orange is invited over by our neighbours, non-resisters; he comes, and that seasonably too, and gives a great and glorious deliverance; thereupon is declared king of England, France and Ireland, and proclaimed accordingly.

"My lord, at that time our wise neighbours forgot not us, they did not indeed well know what we might do, they knew then we had a new opportunity to rectify our constitution, and make conditions of government, they knew we had reason for it, and were afraid of it. Therefore they come again to their old shift, nothing is so necessary as an Union, which is now easy, and they will not stand upon terms with us; but that being a work of time, it is as necessary, that the noblemen and gentlemen at that time present at London, should go down and settle their affairs upon that same bottom with theirs, lest king James come to Ireland, and from thence over upon them, and much to this purpose; what do we do, my lord, we swallow the bait, we are so fond of our deliverer, and forward to imitate our neighbours, that we lost in a great part the benefit of the deliverance. King James is forfeited because of his following the advice of evil counsellors, and yet after their way, these evil counsellors must not only be preserved, but imployed.

"It is true, by their example we make a Claim of Right, but we forget the most necessary points, and remember not that we and they are under different circumstances, we without a king residing among us, they having both their own and our king in the midst of them:

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Thus, my lord, we lose that excellent opportunity. I say we ourselves, not our predecessors, for we are living witnesses of our own mismanagement.

"Well, what followed, we write to our new sovereign that the Union might go on, and we make a nomination of commissioners accordingly, but the fish was catched, no more need of the net. I confess some years after, Presbytery was restored; but all of us know, that if the episcopal people had been al's ready to swear to king William, as now they are to queen Anne, the opposition had been much greater than it was.

"During the first years of king William's reign, I cannot say but we were less under influence than formerly, yet we wanted not strangers meddling in our affairs, but it was rather a personal than a national influence, being acted by a person altogether ignorant of the state of our nation, save what he had from some of our selves, who were so mean as to bow to that golden image; I must confess we began to flourish a little in these days, and finding that we had more money than formerly, had hopes to promote a trade like our neighbour nation, but no sooner had we an act of parliament for our encouragement, but then our prudent neighbours fall upon us with a witness, and that above board too; The two houses of parliament acted and addressed against us, their residents abroad gave in memorials against us; and we must be represented in America as pirates and freebooters, and our gracious sovereign must cry peccavi for his favours towards us; This, my lord, is well known, and I having had the honour fully to discourse on this subject in this same place, I shall say no more but that king William dies.

"Our most gracious queen Anne succeeds, conform to our Claim of Right, who I hope will do right to this her ancient kingdom; what follows? She is proclaimed queen of England, Scotland, France, and Ireland, whereby they prevent the forward zeal of our privy counsellors then accidentally at London, as they prevented that of the Scots parliament; what more? An Union is trumped up again, by which it is evident, that they have some new design upon us, which I hope we shall be so wise to prevent by our unanimity in this session of parliament, to rectify what is amiss, and divert the fatal consequences that may follow thereafter.

"Thus, my lord, I think I have given this honourable house a short and true account from our own histories and acts of parliament of the several opportunities we have lost, when it was in our power to have rectified our constitution to this very day, which naturally brings me to the subject matter of this Act for the Security of the Kingdom, &c.

"My lord, as we go through the paragraphs of this Act, I shall speak my mind freely to the particular clauses thereof; all that I shall say further at present is, that we have before our eyes our predecessors' faults; our most gracious queen hath before her eyes the infirmities of her royal primogenitors; she knows these people to be no good subjects, who pretend to establish a separate interest betwixt her and her people; she knows that she is queen over two distinct independent kingdoms, who have distinct laws, distinct interests and constitutions: And we know, that we are perfectly happy under her majesty's auspicious government; We are secure from all the open assaults and secret designs of our adversaries, during her reign; we want nothing to make our happiness complete, save her royal residence among us, which we have no reason to expect: What shall we then do, in the midst of our prosperity let us consider how soon our joy may be turned to tears; how soon the dismal account may come that we have lost our guardian, the preserver of our laws and liberties.

"My lord, I think the thoughts of this should make a deep impression upon us, and make us to take time by the forehead. All things seem to concur in favour of our design. We have a most gracious queen who loves our nation; we have a new parliament, a new off-spring of many noble and hopeful young peers and other members of this new parliament, who love both their queen and country, and will venture their all for her service; we have begun a new century since our Union with England; and who knows whence a blessing may come; What shall we then do? Even lay aside all divisions, all animosities and resentments, whether upon civil or ecclesiastic accounts, and let us join together like true Scots men, with our royal queen in passing this excellent law, in such an ample manner as may re-unite us together for ever, and rectify our constitution so, as none shall afterwards be able to prevail against us in the manner they have done formerly.

"I am so much convinced of the necessity of doing this now, and not to delay it to another time, my lord, that I may truly say if in this our day, we do not consider the things that tend so much to the happiness of this our nation and posterity, I am afraid such another day may be hid from our eyes; Let us then up and be doing, since we have a queen who will with-hold from us nothing that is for our advantage."

July 1. The Act for the Security of the kingdom being read, a member moved for inserting in it such preliminaries, in case of a successor not of the queen's own body, as should sufficiently secure the Scots nation against the misfortunes arising from the influence of foreign counsels. This was seconded by a great many members; and, after some debate, it was agreed, that the act should be considered paragraph by paragraph. The next day it was resolved, that the estates of the nation should meet upon the 20th day after the queen's decease, and that the government should be lodged in their hands on that day. The 5th of July, a clause was added, excluding Papists from being members of the estates; and, on the 6th, another clause was offered, "That no Englishman or foreigner, having a Scots title, and not having an estate

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of 1,000*l.* sterling yearly rent within this kingdom, shall have place and vote in that meeting of estates." Against this clause it was urged by the marquis of Athol, that the privilege of peerage belonged to some by birth, and to others by immediate creation. That, in the first of these cases, the private birthright of some noblemen might be injured; and, in the other, the prerogative seemed to be impaired. To this it was answered, first, that this clause was no incroaching upon the property and birthright of those peers, who were to be excluded at that time, seeing the exclusion was for that time alone, at which there was an affair to be negotiated, which was purely a Scots concern, viz. the chusing a successor for the kingdom of Scotland. Secondly, That possession and property is the true title for representation; and, though the crown, which is the fountain of honour, be not restrained to dispense titles according to that rule, yet, in this very nice case, there could be no exception made against excluding those from voting, who not only had no possession or interest in Scotland to represent, but who on the contrary, had possession and interest elsewhere, which might clash with the interest of the Scots nation. Thirdly, That in the affair, which was to be the subject-matter of the consideration of that meeting of the estates, the nominating a successor, the English were already predetermined and pre-engaged in their own choice. And though it should prove to be the interest of Scotland, not to enter into the same nomination with England, yet those predetermined peers, who had estates in England, would never risk them, to give a fair vote for the interest of Scotland, where they had no estate to lose; and therefore the clause was insisted on as proper. After some debate, the clause was put to the vote, and carried in the affirmative; but, before voting, the marquis of Athol protested, that this vote might not prejudice the undoubted right of all Scots Protestant peers: To which protest several other peers adhered. Then the marquis of Annandale, the duke of Argyle, and the earl of Kincardine also protested, that the vote might not be prejudicial to the privileges of the peers of Scotland, whether they be Scotsmen or English. On the 7th of July, it was moved, That such limitations as should be thought necessary to be put upon the successor, might be considered; and particularly a clause was offered, that the kingdom should not be engaged in any war, but by the advice and consent of the parliament. This clause being read, a long debate ensued, wherein it was urged, "That the settling the limitations upon the successor, was more proper to be done by that parliament or meeting of the estates, which should name the successor; and that the whole Act of Security might perhaps be lost, if it should be cramped by such limitations." Upon which, it was carried by a majority of twenty-six voices, 'Not to proceed 'to the limitations on the successor in this act.' However, it was afterwards voted, that the Act touching Peace and War should be considered, next after the Act of Security.

July 9. Upon a debate relating to the regency, in case the successor to be named were under age, it was resolved to refer that matter to the wisdom of the meeting of the estates. Five days after, it was moved, that the clause, impowering the meeting of the estates to declare a successor to the crown of the royal line and of the Protestant religion, might receive the addition of these words, 'of the true Pro-'testant religion, as by law established, within 'this kingdom.' Against which it was urged, That the coronation-oath was a sufficient test to engage the successor (being a Protestant) to maintain the church, as by law established. To this it was answered, "That since the wisdom of this house had thought fit to exclude Papists, who professed the doctrine of Transubstantiation, from having any access to a Scots government; so he saw no reason why Lutherans, who profess the doctrine of consubstantiation, ought not likewise to be excluded; and more especially, considering that by this means the family of Hanover would be excluded, which was both proper and necessary, considering that the English had named that family for their successor. For he saw plainly, that the Scots nation must resolve to be in connual slavery, if they should go into the same nomination with England, unless they had such conditions of government settled within themselves, as might secure their liberty and trade; of which he saw no great appearance at this time, since it was evident from several struggles within these few days, that the ministry were in concert with the ministry of England, to continue the Scots nation under the same slavery as formerly; and therefore he did second that clause, and would second any other clause whatsoever, which might put the Scots nation under a distinct government from that of England, seeing they could not obtain such reasonable terms, as might make them easy under one and the same successor." Upon this occasion Mr. Grant informed the house, that he had instructions from the barons of the shire of Inverness, whom he represented, not to enter into any terms of succession, the same with England, unless first there should be such conditions of government, and terms of union of trade, previously concerted, passed and ratified by the parliaments of both kingdoms, as should put the Scots nation upon an equal foot with their neighbours. After some debate, the question was stated, either to 'add the 'words offered to the clause,' or to 'rest upon 'the security by the coronation-oath;' and it was carried for resting on the coronation-oath.

July 16. A clause was offered by the earl of Roxburgh, "providing the successor to be named by the meeting of the estates, be not the successor to the crown of England, unless in this session of parliament there be such conditions of government settled and enacted, as may secure the honour and independency of the crown of this kingdom, the freedom, tre-

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quency, and power of parliaments, and the religion, liberty, and trade of the nation, from the English or foreign influence." It was urged against the clause, that it imported limitations upon the successor, which had been by a former day's vote excluded out of this act. To which it was answered, That by this clause, there was no limitation designed to be brought into this act, but that the clause did only in general secure a capitulation for some proper conditions of government to be settled in the session of parliament, 'in case the nation 'should think fit to name the same successor 'with England,' in the same manner as the other day's resolve had made a capitulation for the Act of Peace and War in particular. It was again objected, That, as this clause was conceived, the making of the conditions of government was too peremptorily restrained to this session of parliament; and therefore it was moved, that, instead of 'this session of 'parliament,' it should be, 'in this or any 'other session of parliament.' To this it was answered, "That whilst the members were designing to secure a capitulation for settling such conditions of government, as might answer no less important ends than the honour and safety of the Scots crown, relieving the nation from slavery, and thereby to extinguish the jealousies, which must, for all future ages, make both nations uneasy; that, when they were projecting such good things with all imaginable dispatch in this parliament, they were told of an expedient for a new delay, by turning them off to some future parliament; which, upon the whole matter, aimed at nothing less than an intire disappointment of those generous designs. And therefore it was hoped, that the wisdom of the house would enter immediately into the clause, as at first offered." The question being put, whether 'to 'add the clause, or not,' some members threw in a great many new expedients, which occasioned several warm speeches; and it being late, and the house in great heat and confusion, several members pressed for a delay. The chancellor seconded this motion, adding, that this debate should be resumed the next sitting, and, by the commissioner's order, adjourned the parliament for four days. This adjournment without a vote, in the midst of a debate, was immediately protested against as illegal, and an address to the queen was framed and subscribed by above seventy members; but, on the 20th of July, the next day of meeting, the chancellor declaring, "That there was no manner of design by that adjournment to incroach upon the privilege of the parliament;" a stop was put to the address. The next day, the house proceeded on the earl of Roxburgh's clause; but, after reading it, there was another offered by the queen's advocate, "providing, that, after her majesty's decease, without heirs of her body, the same person shall in no event be capable to be king or queen of both kingdoms of England and Scotland, unless a free communication of trade, the freedom of navigation, and the liberty of the plantations be fully agreed to, and established by the parliament and kingdom of England, in favour of the kingdom and subjects of Scotland, at the sight and to the satisfaction of this or any ensuing parliament of Scotland, or the said meeting of estates." After this clause was read, it was moved, that it should be added to the Act of Security, instead of the clause offered by the earl of Roxburgh; and this motion was seconded by all the ministry and their dependents. After a long debate, some urging, to have the clause offered relating to the conditions of government added to the Act of Security; others insisting, to have the clause relating to communication of trade added; it was proposed, that both the clauses should be joined, and added to the Act of Security, which, on the 26th of July, was, after a long debate, carried by a majority of seventy-two voices: But the marquis of Annandale, lord president, and the duke of Argyle, protested against it, to which several others adhered.

Six Speeches by Mr. Fletcher on the Act of Security.] August 2. The lord high commissioner signified to the estates, that in regard a great many of the commissioners from the royal burrows were to meet in the convention of the burrows this week at Glasgow, he thought fit to adjourn the parliament for some days, and it was accordingly adjourned till the Saturday after. This was very much resented by the country party, who thought it more reasonable that the convention of burrows, which related only to their own trade, should have been adjourned, than the parliament, which had before them the present and future concerns of the whole nation, and those too of as great weight, as had ever been laid before the estates since the foundation of our government. On this occasion there were several sharp speeches, and one particularly by a very great man, wherein he took notice, that the expence and charge of a high commissioner now, was far greater than that of our kings was formerly: but our courtiers, since the union of the crowns, being more accustomed to command than to reason, the adjournment went on, upon which occasion,

Mr. Fletcher made the following speech:

"My Lord Chancellor; It is often said in this house, that parliaments, and especially long sessions of parliament, are a heavy tax and burden to this nation: I suppose they mean as things are usually managed: otherwise I should think it a great reflection on the wisdom of the nation, and a maxim very pernicious to our government. But indeed in the present state of things, they are a very great burden to us. Our parliament seldom meets in winter, when our country business and the goodness of the season make us live in town with regret. Our parliaments are sitting both in seed time and harvest, and we are made to toil the whole year. We meet one day in three; though no reason can be given why we should not meet every day, unless such a one as I am unwilling

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to name, lest thereby occasion should be taken to mention it elsewhere to the reproach of the nation. The expences of our commissioners are now become greater than those of our kings formerly were; and a great part of this money is laid out upon equipage, and other things of foreign manufacture, to the great damage of the kingdom. We meet in this place in the afternoon, after a great dinner, which I think is not a time to do business; and are in such confusion after candles are lighted, that very often the debate of one single point cannot be finished, but must be put off till another day. Parliaments are forced to submit to the conveniences of the lords of the session, and meetings of the boroughs, though no good reason can be given, why either a lord of the session, or any one deputed to the meetings of the boroughs, should be a member of this house; but on the contrary, experience hath taught us the inconvenience of both. When members of parliament, to perform the duty they owe to their country, have left the most important affairs, and quitted their friends many times in the utmost extremity, to be present at this place, they are told they may return again; as we were the other day called together only in order to be dismissed. We have been for several days adjourned in this time of harvest, when we had the most important affairs under deliberation; that as well those who have neither place nor pension might grow weary of their attendance, as those whose ill state of health makes the service of their country as dangerous, though no less honourable than if they served in the field. Do not these things shew us the necessity of those limitations I had the honour to offer to this house? and particularly of that for lodging the power of adjournments in the parliament; that for meetings of parliament to be in winter; that for impowering the president to give the royal assent; and ascertaining his salary; with that for excluding all lords of the session from being members of parliament. Could one imagine that in this parliament, in which we have had the first opportunity of amending our constitution by new conditions of government, occasion should be given, by reiterating former abuses, to convince all men of the necessity of farther limitations upon a successor? Or is not this rather to be attributed to a peculiar providence, that those who are the great opposers of limitations, should by their conduct give the best reason for them? but I hope no member of this house will be discouraged either by delay or opposition; because the liberties of a people are not to be maintained without passing through great difficulties, and that no toil and labours ought to be declined to preserve a nation from slavery."

Other Clauses were afterwards offered, and, notwithstanding the strong opposition from the ministers, added to the Act, which, on the 13th of August, was read, and approved by a majority of 59 voices.

Some time after the house had agreed to this Act, *Mr. Fletcher* made two speeches about giving the royal assent to the Act of Security, and one concerning the Queen's Negative, as follows:

"My Lord Chancellor; I know it is the undoubted prerogative of her majesty, that no act of this house shall have the force of a law without her royal assent. And as I am confident his grace the high commissioner is sufficiently instructed, to give that assent to every act which shall be laid before him; so more particularly the Act for the Security of the Kingdom, which has already past this house; an act that preserves us from anarchy; an act that arms a defenceless people; an act that has cost the representatives of this kingdom much time and labour to frame, and the nation a very great expence; an act that has passed by a great majority; and above all, an act that contains a caution of the highest importance for the amendment of our constitution. I did not presume the other day, immediately after this act was voted, to desire the royal assent; I thought it a just deference to the high commissioner, not to mention it at that time. Neither would I now, but only that I may have an opportunity to represent to his grace, that as he who gives readily doubles the gift; so his grace has now in his hands, the most glorious and honourable occasion, that any person of this nation ever had, of making himself acceptable, and his memory for ever grateful to the people of this kingdom; since the honour of giving the royal assent to a law, which lays a lasting foundation for their liberties, has been reserved to him."

"My Lord Chancellor; On the day that the Act for the Security of the Kingdom passed in this house, I did not presume to move for the royal assent. The next day of our meeting I mentioned it with all imaginable respect and deference for his grace the high commissioner, and divers honourable persons seconded me. If now, after the noble lord who spoke last, I insist upon it, I think I am no way to be blamed. I shall not endeavour to shew the necessity of this act, in which the whole security of the nation now lies, having spoken to that point the other day: but shall take occasion to say something concerning the delay of giving the royal assent to acts passed in this house; for which I never could hear a good reason, except that a commissioner was not sufficiently instructed. But that cannot be the true reason at this time, because several acts have lain long for the royal assent: in particular, that to ratify a former act, for turning the convention into a parliament, and fencing the Claim of Right, which no man doubts his grace is sufficiently instructed to pass. We must therefore look elsewhere for the reason of this delay, and ought to be excused in doing this; since so little regard is had, and so little satisfaction given to the representatives of this nation, who have for more than three months employed themselves with the greatest assiduity in the

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service of their country, and yet have not seen the least fruit of their labours crowned with the royal assent. Only one act has been touched, for recognizing her majesty's just right, which is a thing of course. This gives but too good reason to those who speak freely, to say that the royal assent is industriously suspended, in order to oblige some men to vote, as shall be most expedient to a certain interest; and that this session of parliament is continued so long, chiefly to make men uneasy, who have neither places nor pensions to bear their charges; that by this means acts for money, importation of French wine, and the like, may pass in a thin house, which will not fail immediately to receive the royal assent, whilst the acts that concern the welfare, and perhaps the very being of the nation, remain untouched."

" My Lord Chancellor; Being under some apprehensions that her majesty may receive ill advice in this affair, from ministers who frequently mistake former bad practices for good precedents, I desire that the third act of the first session of the first parliament of king Charles 2. may be read.

'Act 3, Sess. 1, Parl. 1, Car. 2.

'ACT asserting his Majesty's Royal PREROGATIVE, in calling and dissolving of PARLIAMENTS, and making of LAWS.

'The estates of parliament now convened 'by his majesty's special authority, considering 'that the quietness, stability and happiness of 'the people, do depend upon the safety of the 'king's majesty's sacred person, and the main-'tenance of his sovereign authority, princely 'power, and prerogative royal; and conceiv-'ing themselves obliged in conscience, and in 'discharge of their duties to Almighty God, to 'the king's majesty, and to their native coun-'try, to make a due acknowledgment thereof 'at this time, do therefore unanimously de-'clare, that they will with their lives and for-'tunes maintain and defend the same. And 'they do hereby acknowledge, that the power 'of calling, holding, proroguing, and dissolving 'of parliaments, and all conventions and meet-'ings of the estates, does solely reside in the 'king's majesty, his heirs and successors. And 'that as no parliament can be lawfully kept, 'without the special warrant and presence of 'the king's majesty, or his commissioner; so 'no acts, sentences or statutes, to be passed in 'parliament, can be binding upon the people, 'or have the authority and force of laws, with-'out the special authority and approbation of 'the king's majesty, or his commissioner inter-'poned thereto, at the making thereof. And 'therefore the king's majesty, with advice and 'consent of his estates of parliament, doth 'hereby rescind and annul all laws, acts, 'statutes or practices that have been, or upon 'any pretext whatsoever may be, or seem 'contrary to, or inconsistent with, his Majesty's 'just power and prerogative above-mentioned; 'and declares the same to have been unlawful, 'and to be void and null in all time coming. 'And to the end that this act and acknow-'ledgment, which the estates of parliament, 'from the sense of their humble duty and cer-'tain knowledge, have hereby made, may re-'ceive the more exact obedience in time com-'ing; it is by his majesty, with advice afore-'said, statute and ordained, that the punctual 'observance thereof be specially regarded by 'all his majesty's subjects, and that none of 'them, upon any pretext whatsoever, offer to 'call in question, impugn, or do any deed to 'the contrary hereof, under pain of treason.'

" My Lord Chancellor; The questions concerning the king's prerogative and the people's privileges are nice and difficult. Mr. William Colvin, who was one of the wisest men this nation ever had, used to say concerning defensive arms, that he wished all princes thought them lawful, and the people unlawful. And indeed I heartily wish, that something like these moderate sentiments might always determine all matters in question between both. By the constitution of this kingdom, no act of the estates had the force of a law, unless touched by the king's sceptre, which was his undoubted prerogative. The touch of his sceptre gave authority to our laws, as his stamp did a currency to our coin: but he had no right to refuse or withhold either. It is pretended by some men, that in virtue of this act, the king may refuse the royal assent to acts passed by the estates of the kingdom. But it ought to be considered, that this law is only an acknowledgment and declaration of the king's prerogative, and consequently gives nothing new to the prince. The act acknowledges this to be the prerogative of the king, that whatever is passed in this house, cannot have the force of a law without the royal assent, and makes it high treason to question this prerogative; because the parliament, during the civil war, had usurped a power of imposing their own votes upon the people for law, though neither the king, nor any person commissionated by him were present: and this new law was wholly and simply directed to abolish and rescind that usurpation, as appears by the tenor and express words of the act; which does neither acknowledge nor declare, that the prince has a power to refuse the royal assent to any act presented by the parliament. If any one should say, that the lawgivers designed no less, and that the principal contrivers and promoters of the act frequently boasted they had obtained the negative, as they call it, for the crown; I desire to know how they will make that appear, since no words are to be found in the act, that shew any such design: especially if we consider, that this law was made by a parliament that spoke the most plainly, least equivocally, and most fully of all others concerning the prerogative. And if those who promoted the passing of this act were under so strong a delusion, to think they had obtained a new and great prerogative to

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the crown by a declaratory law, in which there is not one word to that purpose, it was the hand of heaven that defeated their design of destroying the liberty of their country. I know our princes have refused their assent to some acts since the making of this law: but a practice introduced in arbitrary times can deserve no consideration. For my own part, I am far from pushing things to extremity on either hand: I heartily enter into the sentiments of the wise man I mentioned before, and think the people of this nation might have been happy in mistaking the meaning of this law, if such men as have had the greatest credit with our princes, would have let them into the true sense of it. And therefore those who have the honour to advise her majesty, should beware of inducing her to a refusal of the royal assent to the Act for the Security of the Kingdom, because the unwarrantable custom of rejecting acts, was introduced in arbitrary times."

The following Speech was spoke by *Mr. Fletcher*, on the Clause of the Act of Security for Arming the Protestant Subjects.

"My Lord Chancellor; I hope I need not inform this honourable house, that all acts which can be proposed for the security of this kingdom, are vain and empty propositions, unless they are supported by arms; and that to rely upon any law without such a security, is to lean upon a shadow. We had better never pass this act: for then we shall not imagine we have done any thing for our security; and if we think we can do any thing effectual without that provision, we deceive ourselves, and are in a most dangerous condition. Such an act cannot be said to be an act for the security of any thing, in which the most necessary clause is wanting, and without which, all the rest is of no force: neither can any kingdom be really secured but by arming the people. Let no man pretend that we have standing forces to support this law; and that if their numbers be not sufficient, we may raise more. It is very well known this nation cannot maintain so many standing forces as would be necessary for our defence, though we could entirely rely upon their fidelity. The possession of arms is the distinction of a freeman from a slave. He who has nothing, and belongs to another, must be defended by him, and needs no arms: but he who thinks he is his own master, and has any thing he may call his own, ought to have arms to defend himself and what he possesses, or else he lives precariously and at discretion. And though for a while those who have the sword in their power, abstain from doing him injuries; yet by degrees he will be awed into a submission to every arbitrary command. Our ancestors by being always armed, and frequently in action, defended themselves against the Romans, Danes, and English, and maintained their liberty against the encroachments of their own princes. If we are not rich enough to pay a sufficient number of standing forces, we have at least this advantage, that arms in our own hands serve no less to maintain our liberty at home, than to defend us from enemies abroad. Other nations, if they think they can trust standing forces, may by their means defend themselves against foreign enemies. But we, who have not wealth sufficient to pay such forces, should not, of all nations under heaven, be unarmed. For us then to continue without arms, is to be directly in the condition of slaves: to be found unarmed in the event of her majesty's death, would be to have no manner of security for our liberty, property, or the independency of this kingdom. By being unarmed, we every day run the risk of our all, since we know not how soon that event may overtake us: to continue still unarmed, when by this very act now under deliberation, we have put a case, which happening may separate us from England, would be the grossest of all follies. And if we do not provide for arming the kingdom in such an exigency, we shall become a jest and a proverb to the world."

The following Speech was spoke by *Mr. Fletcher* on the Clause of the Act of Security, for making all Military Commissions above that of a Captain void, upon her Majesty's death.

"My Lord Chancellor; If in the said event of her majesty's decease without heirs of her body, any considerable military force should be in the hands of one or more men, who might have an understanding together, we are not very sure what use they would make of them in so nice and critical a conjuncture. We know that as the most just and honourable enterprizes, when they fail, are accounted in the number of rebellions; so all attempts, however unjust, if they succeed, always purge themselves of all guilt and imputation. If a man presume he shall have success, and obtain the utmost of his hopes, he will not too nicely examine the point of right, nor balance too scrupulously the injury he does to his country. I would not have any man take this for a reflection upon those honourable persons, who have at present the command of our troops. For besides that, we are not certain, who shall be in those commands at the time of such an event, we are to know that all men are frail, and the wicked and mean-spirited world has paid too much honour to many, who have subverted the liberties of their country. We see a great disposition at this time in some men, not to consent to any limitations on a successor, though we should name the same with England. And therefore since this is probably the last opportunity we shall ever have, of freeing ourselves from our dependence on the English court, we ought to manage it with the utmost jealousy and diffidence of such men. For though we have ordered the nation to be armed and exercised, which will be a sufficient defence when done; yet we know not but the event, which God avert, may happen before this can be effected. And we may easily imagine, what a few bold men at the head of a small number of regular troops might do, when all things are in confusion and suspence. So

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that we ought to make effectual provision with the utmost circumspection, that all such forces may be subservient to the government, and interest of this nation, and not to the private ambition of their commanders. I therefore move, that immediately upon the decease of her majesty, all military commissions above that of a captain be null and void."

When the parliament found the commissioner would not give an answer to their instances for passing the Security-act, it was moved, on the 25th of August, that the house should go upon the consideration of some overtures for securing the liberties of the nation, conformable to the tenour of the grand resolve, entered into the 28th of May. Against which it was urged, that, according to the terms of that resolve, the house had already made considerable progress in the matter of religion and liberty; and that trade was next in order. Upon which several acts for trade were offered and read, particularly, an Act allowing the Importation of all sorts of Wines and other foreign Liquors. As this overture was opposed by several members as prejudicial to the trade of the nation, it was alledged by one of the ministry, that it was very well known, that the customs on wines was the chief fund for the civil list; and unless the importation of French wines were restored, the government could not be supported, considering, that the funds were now very far deficient. This was seconded by another minister, representing the great benefit which would arise to the kingdom in general, and to the towns in particular, by the French trade; and concluding, "That unless that act was passed, the subjects might plow up their towns, and burn their ships." To this a member answered, "That, since he heard such harsh expressions as these come from about the throne, for no other reason, but to amuse and mislead the boroughs with pretended advantages of trade, the members must take the liberty to tell their mind the more freely. That he did openly aver, that it was plain to all this house, that the nation was ruined in all its concerns both of liberty and trade, by the most treacherous artifices of those, who were in the ministry." Upon this, some about the throne said, that these expressions ought 'to be taken notice 'of.' To which the same member answered, "That he heard it murmured about the throne, that his expressions ought to be taken notice of; but he defied any body to take notice of them, for they all knew too well, that what he had spoken was a certain truth." It was again urged in behalf of the act, "That upon further inquiry it would be found, that the trade with France was a trade beneficial to the nation, because the French took Scots goods in return for their wines." So that, after a long and angry debate, the act was ordered to be marked a first reading.

Sept. 6. The earl of Marchmont desired leave of the house to withdraw an 'Act, containing some Limitations upon the Successor,' which had been lately presented by him, but had not yet been read. His desire being granted, as soon as his lordship had withdrawn that act, he begged leave to present another in its room, which he desired might be read. This was an act to 'settle the succession on 'the house of Hanover;' and, as his lordship had not signified what the import of it was, nobody opposed his motion for the reading of it; but when the clerk came to that paragraph, where it substitutes the princess Sophia, &c. no sooner were those words out of his mouth, but the whole house was in a flame. Some moved to have the overture burnt; and others to have the earl, who offered it, called to the bar, and others to have him sent to the castle. After the house had shewed a general dissatisfaction against the thing, at length the chancellor procured silence, and the clerk was ordered to read it through; and the earl of Marchmont desired it might be marked a first reading and was seconded by the marquis of Lothian and another member. But they were so warmly opposed, that there was not a vote demanded; and the earl of Marchmont proposed only, that the overture might be marked in the minutes, expressing the import of it, urging, "That the minutes ought always to record the matter of fact as passed in parliament." This was warmly opposed by a member, who said, "That though it is both customary and proper, that every thing, which is moved in the house, be marked in the minutes; yet the act now offered by the earl of Marchmont ought to be distinguished by some particular mark of indignation from this house, seeing the generality of the members had sufficiently shewn their sentiments, in relation to the nomination of a successor, and had so frequently in this session declared it to be their opinion, that the nation was at present in a very improper state for nominating a successor the same with England: And therefore the best he could say, in behalf of this most unreasonable overture, was to move, that it might be buried in oblivion, and not marked in the minutes." Another member said, "That he heard an act offered, which seemed to contain some things inconsistent with the Act of Security, which had lately passed the vote of the house; and it was not unlikely, that the jealousy, which the members had contracted, that this act of settlement was not to receive the royal assent, prompted them to find out new acts to supply it. That he very plainly foresaw, that this would promote the jealousy, which this nation had already contracted against their neighbours; and therefore he moved, that the lord chancellor might, as the mouth of the house, address her majesty's representative to give the royal assent to that act." This motion was seconded by a great many members; and, the earl of Marchmont still insisting to have his act marked in the minutes, as a privilege naturally due to all overtures, the question was stated, Whether to mark the overture in the minutes, or not?

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And it was carried in the negative by fifty-seven votes.

Sept. 9. It was represented by a member, "That this parliament had now sate very long, and, after a vast expence of money, time, and pains, had at length passed an act for the Security of the nation; and as it would be some recompence to the members to see that act receive the royal assent, so it would, no doubt, be very satisfactory to the nation. And therefore he begged, that her majesty's commissioner would give the royal assent to the act." This was seconded by a great many members; and at length, a motion was made, that the house should 'address her majesty to 'give the royal assent.' Against this it was urged, That the parliament had already done their part, by voting the act, and what remained to be done, was the queen's part; and that there was no need for addressing, seeing it was notified to the queen, that the parliament had voted the act. To this it was answered, "That, no doubt, it was made known to her majesty by her ministry, that this act had passed the vote of the house: But that every body knew very well, that courtiers never fail to represent the black side of things; and therefore he concurred in that motion of seconding the former vote of the house, by a dutiful address to her majesty." After some further debate, and several warm speeches, it was represented by the marquis of Tweedale, that it was somewhat too hasty to address her majesty for her assent, until the house knew from the commissioner, whether he was already instructed for that purpose; and therefore he begged, that the commissioner would declare his intentions. A great many members seconded this motion, and pressed, that the commissioner would give the house so much satisfaction, as to let them know, whether or no he was instructed to pass this act. But his grace did not think fit to give any answer in the matter. Thereupon another member, Mr. Fletcher of Salton, said, "That he had seldom seen any benefit from addresses, and for that reason he was very little concerned, whether this house did at present address her majesty or not. That he thought, that the acts, which the house had voted, were but very slender fences for the security of the nation: That the nation's case was desperate, and the provisions must be suitable. That he found some people were too forward in promoting the succession of the house of Hanover, and others that of the prince of Wales; and that they were both contented to sacrifice their own and their nation's liberty, rather than not accomplish their designs. That he did consider it as a very melancholy prospect for this nation, that they were not to expect either of those two successors, but at the rate of being slaves, not to their princes, but to their neighbours; for supposing, that, upon the one hand this nation should submit either willingly, or by commission, to the successor of England, without such conditions of government within themselves, as should secure them against the sole influence of the English ministry upon their joint prince, in that case they were no better than slaves: Or, if on the other hand, the Scots should force their successor upon the English, without securing to themselves the conditions before-mentioned, they must still resolve to be under the same dependance, when conquerors, as when conquered. And therefore, that it was absolutely necessary for them to settle such conditions of government, as might place them in a reasonable state of freedom and security, whosoever might be the successor; and that to this purpose he offered an act, which might answer those ends." The first draught ran thus: "Our sovereign lady, with the advice and consent of the estates of parliament, statutes and ordains, that, after the decease of her majesty (whom God long preserve) and failing heirs of her body, no one shall succeed to the crown of this realm, that is likewise successor to the crown of England, but under the limitations following; which, together with the Coronation-Oath and Claim of Right, they shall swear to observe: That all places and offices, both civil and military, and all pensions formerly conferred upon our kings, shall ever after be given by parliament: That a new parliament shall be chosen every Michaelmas head-court, to sit the 1st of November thereafter, and adjourn themselves from time to time till next Michaelmas; and that they chuse their own president: That a committee of thirty-six members, chosen by and out of the whole parliament, without distinction of estates, shall, during the intervals of parliament, under the king, have the administration of the government, be his council, and accountable to parliament; with power, on extraordinary occasions, to call the parliament together."

After the act was read, the member said, "That he had not in this act made any nomination of a successor; and it was his opinion, that this nation was not, at present, in a condition for such a nomination; but seeing there was a great zeal amongst some for promoting the succession of Hanover, and no less among others for promoting that of the prince of Wales; therefore, to satify both, he had another act ready to offer, but which he need not read, seeing it was the very same with what was already offered in every circumstance, excepting only that it had a blank in it for nominating a successor. That he moved, that the members might go to work, and pass this act; and, immediately after that, let each party try their strength, and let the strongest carry the nomination, and fill up the blank, according to the mind of the plurality. That thus far he begged leave to declare his opinion, That he had rather concur in nominating the most rigid Papist with those conditions of government, than the truest Protestant without them." This motion was seconded by several members; but others urged against it, 'That the house 'was now in the middle of an act of trade,

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'which ought to be finished before any other 'business.' After some debate, and a great many new instances to the commissioner, to give the royal assent to the Act of Security, a member said, "That he found this house was to get no satisfaction from her majesty's commissioner at this time; and it seemed, the nation was to expect as little good; and therefore, the next best clause was to prevent damage as much as possible. That it was to be noted, that there were lately some meetings betwixt some subjects of both kingdoms, in which several matters were agitated, in relation to an union between the two nations. That he should not descend to an inquiry into the nature of the powers, by virtue of which the subjects of Scotland did meet upon such a treaty. That those things might be spoke to in due time; but at present he humbly conceived, there were two things worthy the consideration of this house; The one was, that, seeing such a treaty had been entered upon by some of the subjects of this nation, it seemed strange, that nothing of that sort had all this session of parliament been laid before this house; and therefore he moved, That it be now laid before the house, to be considered by the members. The other thing was, that, seeing there were a great many things to be said in relation to that treaty, which might be more seasonably taken notice of at another time, therefore he moved, that a stop might be put to any further proceedings in that matter." This motion was seconded by a great many members: and, after some debate, there was a motion made and acquiesced to without a vote, "That the progress, and advances, made in the said treaty, might be laid before the parliament next sederunt, and declared by a vote of parliament, that the commission granted for the said treaty was determined and extinct; and that there should be no new commission for treating of any union betwixt the kingdoms of Scotland and England, without consent of parliament." After this was over, a great many members pressed the commissioner to give the royal assent to the Act of Security; but no answer was made from the throne. At length a member said, That, seeing so much had been said without an answer, it was better to leave the commissioner to his reflections; that, perhaps, he would be ready to comply against next day; and that, therefore, he moved the house should proceed to finish the act against the exportation of wool (which had been marked the first reading) and this was accordingly gone upon, put to the vote, and approved.

The Queen refuses her Assent to the Act of Security.] Sept. 10. The commissioner made the following speech:

"My lords and gentlemen; It was with great uneasiness to me, that I was forced to be silent yesterday, when so many did appear earnest, that I should speak. I have all the inclinations in the world to give you full satisfaction; but I thought, that I ought not to be pressed to give the royal assent, or to declare my instructions in parliament, which I had made known to many noble and worthy members, besides the queen's servants.

"Now that these instances are let fall, and that you have proceeded to other business, to testify how willing I am to give you contentment in any thing, that is in my power, I tell you freely, that I have received her majesty's pleasure, and am fully impowered to give the royal assent to all the acts voted in this session, excepting only that act, intitled, 'an 'Act for the Security of the Kingdom.' You may easily believe, that requires her majesty's further consideration. At the same time her majesty expects you will mind your own safety, in making necessary provisions for the troops upon the present establishment; and that you will put the trade and customs on that foot, that the civil list may be supported. And I intreat your lordships to finish these as quickly as possible, that this session may be put to a speedy and happy conclusion."

The commissioner having ended his speech, a member said, "That, had it been spoke in the beginning of the session, it might have saved a great deal of labour and expence; for this was plainly to tell the parliament, 'that all 'their business was to raise a subsidy for the 'army, and customs for the civil list; and that 'then the session should be happily concluded 'by an adjournment.'" This was followed by a debate concerning the queen's negative. It was urged, "That the third act of the first session of the first parliament of king Charles 2, (which is the only act, upon which the negative is founded) was only made to obviate a practice, which had been usurped by the estates in the time of the late rebellion, of making laws by their own vote, and promulgating such votes, as having the authority of laws, without the royal assent: And therefore by the said act it is declared, 'That the royal assent is neces-'sary and essential to give the force of a law 'to the vote of the house;' but from thence it could not be inferred, that the assent could be refused to an act offered, and solemnly passed the house; and that, till of late, the negative had never been interposed; and that but in very few cases." After some debate, a motion was made to address her majesty, 'That she 'would please to gratify the house in giving the 'royal assent to the act:' But the question being put, 'Address or Proceed to other business;' it was carried, 'Proceed to other business,' by twelve voices. After this, Mr. Pringle, who had been secretary to the Treaty of Union, was ordered to lay the minutes of that Treaty before the house at their next sitting.

Proceedings in the Act of Limitation upon the Successor to the Throne.] Sept. 13. It was moved, that, seeing the royal assent had been refused to the Act of Security, therefore it was proper to go upon other overtures for the security of the nation upon the event of the queen's demise. Against this it was urged, that the house had concluded by a late resolve to go upon overtures for trade: To which

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it was answered, That this last resolve had been entered into, 'after the Act of Security' had passed the vote of the house, and whilst it was not doubted, that the royal assent would be given to it; but that now, the royal assent being refused, the house did naturally recur to the state of their first grand resolve, entered into the 28th day of May. To this it was again replied, That the Act of Security was indeed now laid aside, but perhaps it might afterwards receive the royal assent, when her majesty had farther considered of it; and that, besides this Act of Security, there were some other very valuable acts passed in consequence of that grand resolve; such as the act 'securing Presbyterian government, the act ratifying the 'Claim of Right, &c.' to which acts the royal assent was now promised by her majesty's commissioner; and therefore it was high time to go upon some further acts for trade. After a long and warm debate, the question being put, 'To proceed either upon the Act for Limitation, 'or upon Overtures for Trade?' It was carried for the latter by a majority of eleven voices. This vote being over, the 'act for importing Wine' was read, and, the question for approving it being insisted on, the marquis of Tweedale said, That, seeing no arguments could prevail with some people to part with this 'scandalous and 'pernicious act,' he thought it was very proper, that all honest men, who wished well to the trade of their country and the honour of their queen, should clear themselves of the least assent to it: And therefore, before the act was to put the vote, he entered a protestation for himself, and in the name of such as should adhere to it, "That this act, allowing the importation of French wines and brandy, ought not to pass, as being dishonourable to her majesty, inconsistent with the grand alliance, wherein she was engaged, and prejudicial to the honour, safety, interest, and trade of this kingdom." He desired, that this protestation might be marked and inserted in the records of parliament; and the same was adhered to by twenty peers, forty-three representatives for shires, and twenty-one representatives of boroughs; and then, the clause being put to the vote, it was carried in the affirmative. The next day, Sept. 14, a clause was offered, 'That 'no Scots ships should trade directly with 'France now in time of war;' but, several members objecting against it, the act was carried by a vote without it.

Sept. 15. It was urged by a member, "That this had been a very tedious and expensive session of parliament: That most part of it had been employed in adjusting the Act of Security of this nation after her majesty's decease: that, seeing this Act of Security was now laid aside, it was therefore high time for the house to employ themselves in making new conditions. That there was an act now lying upon the table, offered by Mr. Fletcher, which he moved might be the standard of future deliberations, as that formerly offered by the marquis of Athol had been the foundation of the Act of Security." This motion being seconded by many members, the lord treasurer represented, that the parliament had sat a long time without providing funds for the army, which must of necessity be supported, both for maintaining the peace at home, and for defending the nation against invasions from abroad: that there was an act now upon the table, which had been long before presented for that purpose: and he moved, that it might receive a first reading. This was opposed by a member, who said, "That it seemed very unseasonable to propose a supply at this time, when the house had so much to do for the security of the nation: it being well known, that this parliament should have no time allowed them after the supply was granted; though, for his part, he saw nobody unwilling to go upon the supply in due time, yet he thought it was very little encouragement for the nation to grant a supply, when they found themselves frustrated of all their labour and expense for these several months, and when the whole nation saw, that the supplies serve for no other uses, but to gratify the avarice of some unsatiable ministers." This occasioned a long debate, and many warm speeches were made in behalf of Mr. Fletcher's act in particular, and on the state of the nation in general; and at length Mr. Fletcher himself spoke in favour of his own act, entering into the detail of it. Among the many arguments for promoting it, and the good consequences which would arise from it, he urged, "That it would save a great sum, which was yearly expended by such as went to court to look after places. That this sum might serve for a good stock for trade. That by this act the nation would be free from the influence of English ministers, by having their own places bestowed by a Scots parliament. That such an establishment would not turn the form of the Scots government into a commonwealth, since there are precedents for it in some of the most absolute monarchies in the world, particularly China, where all offices are bestowed by the prince upon recommendation from his several councils in the several parts of his kingdoms: nor would the prerogative be impaired by it: for as to the prince's concern, it was only changing hands betwixt the advice of an English ministry and that of a Scots parliament. That a Scots parliament must know, who are persons fit for the service of their prince and nation better than English ministers, who, through their being unacquainted with the Scotsmen and Scots affairs, might commit mistakes hurtful to both nations. That the English would be gainers by this Act as well as their prince, since all the advantage, they had by the present establishment, was to have the vanity of directing Scots affairs by the humour of a few of their own ministers, who (as appeared of late) had very much mistaken the interest of England, in some directions they gave relating to the Scots affairs. That by these means Scotland was impoverished, and rendered incapable of giving that joint-assistance against the common enemy, which otherwise

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they might, if they were allowed to manage their own trade and business to the best advantage. That these difficulties must certainly make the nation uneasy in their present condition, and would certainly dispose them to lay hold on any opportunity of amending their condition, though to the ruin of their neighbours.

The Chancellor made an answer to this speech, respresenting the act as laying a scheme for a commonwealth, and tending to innovate the constitution of the monarchy. And then the ministry offered a state of a vote for giving a first reading either to Mr. Fletcher's act, or to the act of subsidy. There were many of the country party, who had no mind to go to the full extent of Mr. Fletcher's act, but were withal resolved to go upon the consideration of overtures for the liberty of the nation. These urged another state of a vote, viz. 'overtures for subsidies,' or 'overtures for liberty?' But the ministry pressed the first state of the vote. Upon which Mr. Fletcher alledged, "That he had the honour to offer an act for securing the liberties of the nation against English influence. That it was his opinion, that the condition of the nation was so far gone into ruin, that the provisions in this act were absolutely necessary for its relief. That he doubted not to make this appear by reasons unanswerable; but that he found some people very ready to pervert the meaning of good designs: and, lest any such bad handle should be made of an overture, which he had sincerely designed for the good of his country, he begged leave to withdraw his overture:" adding, "That he should be very ready to go into such overtures, as the wisdom of the house should judge most proper for the honour and safety of the nation." Then the other state of the vote was offered, 'overtures for liberty,' or 'overtures for a subsidy.' Here the ministry were at a loss, for they knew, that overtures for liberty would be carried; and, by Mr. Fletcher's withdrawing his act, they were obliged to look out for another state of a vote. This put them to a consultation about the throne, during which time the members called from all sides of the house for a vote upon the question, as stated, Liberty, or Subsidy, and a great many warm expressions were thrown out against the ministry from people of all ranks. After some time spent in this manner, during which several uncertain and imperfect overtures of differing states of questions were made: the commissioner moved from the throne, "That, if the house would agree to allow a first reading to the subsidy act, he did promise, That, it should not be heard of for three ensuing sessions." To this a member answered, that he believed, that those about the throne did not expect, that this overture would take in the house: that the import of it was plainly this, that the act for a subsidy should get a first reading now; then the house should have three short sittings for the liberties of the nation; and the fourth should compleat the subsidy: after which, the house was sure to be adjourned: but, that he was certain the house was better acquainted with the artifices of the ministry, than to be misled by such overtures." Another member urged "That it was now plain, the nation was to expect no other return for their expence and toil, than to be put to the charge of a subsidy, and to lay down their necks under the yoke of slavery, which was prepared for them from that throne." A third member said, "That he insisted upon having a vote upon the question, which had been put. That he found, that, as the liberties were suppressed, so the privileges of parliament were like to be torn from them; but that he would rather venture his life than it should be so; and should rather to 'die a freeman,' than 'live a slave." Some pressed for the vote, and particularly the earl of Roxburgh, who added, "That if there was no other way of obtaining so natural and undeniable a privilege of the parliament 'they would demand it with their swords in their hands." Whether or not the commissioner had information, that the house would adhere to what they proposed to be done, it is certain, that the foot guards were ordered to be in readiness, and that, for several days before, a grand-guard was set upon the Netherbow port; and lieutenant-general Ramsay was heard to say in his cups, 'That means would be found to make 'the parliament calm enough.' However, the commissioner, perceiving he should be torn in pieces, if he withstood the formidable opposition he saw against him, ordered the chancellor to acquaint the house, "That it was yielded the parliament should proceed upon overtures for liberty next session." Upon which assurance the members met the next morning, in order to prepare an overture for their purpose, which was in substance as follows: "That the elective members should be chosen for every seat at the Michaelmas head courts: that there should be a parliament held once in two years at least: that the short adjournments, *de die in diem*, should be made by the parliament themselves as in England: that no officer of the army, customs, or excise, or gratuitous pensioner, should sit as an elective member.

The Lord High Commissioner's Speech at the Adjournment.] If such an act had received the royal assent, the country-party had resolved in giving a supply, but the commissioner was not instructed to purchase it at that rate; and having notice of what passed, he called for such acts as he was impowered to pass, and having given the royal assent to them, made the following speech to the parliament:

"My lords and gentlemen; we have now passed several good acts for our religion, liberty and trade, which, I hope, will be acceptable to all her majesty's good subjects. I wish you had also given the supplies necessary for the maintaining of her majesty's forces, and preserving the peace and safety of the kingdom. But since, I hope, this may yet be done in due time, and that besides

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some questions and difficulties are fallen, that, in all probability, you can have no time to determine: and that withal, it is fit her majesty should have time to consider upon such things, that have been laid before her; and, that we may know her mind therein more perfectly, a short recess appears at present to be necessary, and that this parliament be adjourned for some time.—And therefore I have ordered my lord chancellor to adjourn this parliament until the 12th of October next." Which the lord chancellor did accordingly.*

Mr. Fletcher's Speeches on the Act of Limitations.] The Draught of the Act offered by Mr. Fletcher, and his Speeches upon it, are as follow:

"My Lord Chancellor; I have waited long and with great patience for the result of this session, to see if I could discover a real and sincere intention in the members of this house to restore the freedom of our country in this great and perhaps only opportunity. I know there are many different views among us, and all men pretend the good of the nation. But every man here is obliged carefully to examine the things before us, and to act according to his knowledge and conscience, without regard to the views of other men, whatever charity he may have for them: I say, every man in this place is obliged by the oath he has taken to give such advice as he thinks most expedient for the good of his country. The principal business of this session has been the forming of an Act for the Security of the kingdom, upon the expiration of the present intail of the crown. And though one would have thought, that the most essential thing which could have entered into such an act, had been to ascertain the conditions on which the nation would receive a successor, yet this has been entirely waved and over-ruled by the house. Only there is a caution inserted in the act, that the successor shall not be the same person who is to succeed in England, unless such conditions of government be first enacted, as may secure the freedom of this nation. But this is a general and indefinite clause, and liable to the dangerous inconveniency of being declared to be fulfilled by giving us two or three inconsiderable laws. So that this session of parliament, in which we have had so great an opportunity of making ourselves for ever a free people, is like to terminate without any real security for our liberties, or any essential amendment of our constitution. And now, when we ought to come to particulars, and enact such limitations as may fully satisfy the general clause, we must amuse ourselves with things of little significancy, and hardly mention any limitation of moment or consequence. But instead of this, acts are brought in for regulations to take place during the life of the queen, which we are not to expect, and quite draw us off from the business we should attend. By these methods divers well meaning men have been deluded, whilst others have proposed a present nomination of a successor under limitations. But I fear the far

* "Thus ended this famous session of parliament, in which the greatest part of the ministry had abandoned the duke of Queensberry; and particularly the earl of Seafield, lord chancellor, the marquis of Athol, lord privy-seal, and the lord viscount Tarbat, secretary of state, with all who depended on them; yet, upon the conclusion of the session, the marquis was made a duke, and the lord Tarbat earl of Cromarty; which looked like rewarding them for their opposition. The marquis of Douglass, though under age, was likewise made a duke; the viscounts of Stair and Roseberry were created earls of the same name: the lord Boyle, earl of Glasgow; James Stuart of Bute, earl of Bute; Charles Hope of Hopton, earl of Hopton; John Crawford of Kilbirnce, viscount of Garnock; and sir James Primrose of Carrington, viscount of Primrose. Soon after, the queen resolved to revive the order of the Thistle, which had been raised by her father, but was let fall by the late king. It was to be carried in a green ribbon, as the George is in a blue, and the glory was in the form of a St. Andrew's cross, with a thistle in the middle. Argyle and Athol, Annandale, Orkney, and Seafield were the first who had it, the number being limited to twelve. To such a height did the disorders in that kingdom rise, that great skill and much secret practice seemed necessary to set matters right there. The aversion and jealousy towards those, who had been most active in the last reign, and the favour shewn to these, who were in king James's interest, had an appearance of bringing matters out of an excess to a temper; and it was much magnified by those who intended to flatter the queen, on design to ruin her. Though the same measures were taken in England, yet there was less danger in following them there, than in Scotland. Errors might be sooner observed, and easier corrected, where persons are in view, and are watched in all their motions; but this might prove fatal at a greater distance, where it was more easy to deny or palliate things with greater assurance. The duke of Queensberry's engrossing all things to himself, increased the disgust at the credit he was in. He had begun a practice of drawing out the sessions of parliament to an unusual length; by which his appointments exhausted so much of the revenue, that the rest of the ministers were not paid; which will always create discontent. He trusted entirely to a few persons, and his conduct was liable to just exceptions. Some of those, who had the greatest credit with him, were believed to be engaged in a foreign interest; and his passing, or rather promoting the act, which opened a correspondence with France, was considered as a design to settle a commerce there: and, upon that, his fidelity or his capacity were much questioned." Tindal.

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greater part have designed to make their court either to her majesty, the house of Hanover, or those of St. Germains, by maintaining the prerogative in Scotland as high as ever, to the perpetual enslaving of this nation to the ministers of England. Therefore I, who have never made court to any prince, and I hope never shall, at the rate of the least prejudice to my country, think myself obliged in discharge of my conscience, and the duty of my oath in parliament, to offer such limitations as may answer the general clause in the Act for the Security of the kingdom; and this I do in two draughts, the one containing the limitations by themselves; the other with the same limitations, and a blank for inserting the name of a successor. If the house shall think fit to take into consideration that draught which has no blank, and enact the limitations, I shall rest satisfied, being as little fond of naming a successor as any man. Otherwise, I offer the draught with a blank: to the end that every man may make his court to the person he most affects; and hope by this means to please all parties: The court in offering them an opportunity to name the successor of England, a thing so acceptable to her majesty and that nation: Those who may favour the court of St. Germains, by giving them a chance for their pretensions; and every true Scots-man in vindicating the liberty of this nation, whoever be the successor.

First Draught.

'Our sovereign lady, with advice and consent of the estates of parliament, statutes and ordains, That after the decease of her majesty, whom God long preserve, and failing heirs of her body, no one shall succeed to the crown of this realm that is likewise successor to the crown of England, but under the limitations following, which, together with the Oath of Coronation and Claim of Right, they shall swear to observe. That all places and offices, both civil and military, and all pensions formerly conferred by our kings, shall ever after be given by parliament.—That a new parliament shall be chosen every Michaelmas head-court, to sit the first of November thereafter, and adjourn themselves from time to time till next Michaelmas; and that they chuse their own president.—That a committee of thirty six members, chosen by and out of the whole parliament, without distinction of estates, shall during the intervals of parliament, under the king, have the administration of the government, be his council, and accountable to parliament: with power in extraordinary occasions, to call the parliament together.'

Second Draught.

'Our sovereign lady, with advice and consent of the estates of parliament, statutes and ordains, That after the decease of her majesty, whom God long preserve, and heirs of her body failing,

'shall succeed to the crown of this realm. But that in case the said successor be likewise the successor to the crown of England, the said successor shall be under the limitations following, &c.'

"No man can be an enemy to these limitations, in case we have the same king with England, except he who is so shameless a partizan either of the court at St. Germains, or the house of Hanover, that he would rather see Scotland continue to depend upon an English ministry, than that their prerogative should be any way lessened in this kingdom. As for those who have St. Germains in their view, and are accounted the highest of all the prerogative-men, I would ask them, if we should assist them in advancing their prince to the throne of Great Britain, are we, for our reward, to continue still in our former dependence on the English court? These limitations are the only test to discover a lover of his country from a courtier either to her majesty, Hanover, or St. Germains. For prerogative-men who are for enslaving this nation to the directions of another court, are courtiers to any successor; and let them pretend what they will, if their principles lead necessarily to subject this nation to another, are enemies to the nation. These men are so absurd as to provoke England, and yet resolve to continue slaves of that court. This country must be made a field of blood, in order to advance a papist to the throne of Britain. If we fail, we shall be slaves by right of conquest; if we prevail, have the happiness to continue in our former slavish dependence. And though to break this yoke all good men would venture their all, yet I believe few will be willing to lie at the mercy of France and popery, and at the same time draw upon themselves the indignation and power of England, for the sake only of measuring our strength with a much more powerful nation; and to be sure to continue still under our former dependence, though we should happen to prevail. Now of those who are for the same successor with England, I would ask, if in that case we are not also to continue in our former dependence; which will not fail always to grow from bad to worse, and at length become more intolerable to all honest men, than death itself. For my own part I think, that even the most zealous protestant in the nation, if he have a true regard for his country, ought rather to wish, were it consistent with our Claim of Right, that a papist should succeed to the throne of Great Britain under such limitations as would render this nation free and independent, than the most protestant and best prince without any. If we may live free, I little value who is king: it is indifferent to me, provided the limitations be enacted, to name or not name; Hanover, St. Germains, or whom you will."

"My Lord Chancellor; His grace the high commissioner having acquainted this house that he has instructions from her majesty to give the royal assent to all acts passed in this session, except that for the security of the kingdom,

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it will be highly necessary to provide some new laws for securing our liberty upon the expiration of the present intail of the crown. And therefore I shall speak to the first article of the limitations contained in the short act I offered the other day; not only because it is the first in order, but because I persuade myself you all know that parliaments were formerly chosen annually; that they had the power of appointing the times of their meetings and adjournments, together with the nomination of committees to superintend the administration of the government during the intervals of parliament: all which, if it were necessary, might be proved by a great number of public acts. So that if I demonstrate the use and necessity of the first article, there will remain no great difficulty concerning the rest.

"My Lord Chancellor; The condition of a people, however unhappy, if they not only know the cause of their misery, but have also the remedy in their power, and yet should refuse to apply it, one would think, were not to be pitied. And though the condition of good men, who are concluded and oppressed by a majority of the bad, is much to be lamented; yet Christianity teaches us to shew a greater measure of compassion to those who are knowingly and voluntarily obstinate to ruin both themselves and others. But the regret of every wise and good man must needs be extraordinary, when he sees the liberty and happiness of his country not only obstructed, but utterly extinguished by the private and transitory interest of self-designing men, who indeed very often meet their own ruin, but most certainly bring destruction upon their posterity by such courses. Sure if a man who is intrusted by others, should for his own private advantage betray that trust, to the perpetual and irrecoverable ruin of those who trusted him, the liveliest sense and deepest remorse for so great guilt, will undoubtedly seize and terrify the conscience of such a man, as often as the treacherous part he has acted shall recur to his thoughts; which will most frequently happen in the times of his distress, and the nearer he approaches to a life in which those remorses are perpetual. But I hope every man in this house has so well considered these things, as to preserve him from falling into such terrible circumstances: And (as all men are subject to great failings) if any person placed in this most eminent trust, is conscious to himself of having ever been wanting in duty to his country, I doubt not he will this day, in this weighty matter, atone for all, and not blindly follow the opinion of other men, because he alone must account for his own actions to his great Lord and Master.

"The limitation, to which I am about to speak, requires, that all places, offices, and pensions, which have been formerly given by our kings, shall, after her majesty and heirs of her body, be conferred by parliament so long as we are under the same prince with England. Without this limitation, our poverty and subjection to the court of England will every day increase; and the question we have now before us is, whether we will be freemen or slaves for ever? whether we will continue to depend, or break the yoke of our dependence? and whether we will chuse to live poor and miserable, or rich, free, and happy? Let no man think to object, that this limitation takes away the whole power of the prince. For the same condition of government is found in one of the most absolute monarchies of the world. I have very good authority for what I say, from all the best authors that have treated of the government of China; but shall only cite the words of an able minister of state, who had very well considered whatever had been written on that subject; I mean sir William Temple, who says, "That for the government, it is absolute monarchy, there being no other laws in China, but the king's orders and commands: and it is likewise hereditary, still descending to the next of blood. But all orders and commands of the king proceed through his councils; and are made upon the recommendation or petition of the council proper and appointed for that affair; so that all matters are debated, determined, and concluded by the several councils; and then upon their advices and requests made to the king, they are ratified and signed by him, and so pass into laws. All great offices of state are likewise conferred by the king, upon the same recommendations or petitions of his several councils; so that none are preferred by the humour of the prince himself, nor by favour of any minister, by flattery or corruption, but by the force or appearance of merit, of learning, and of virtue; which observed by the several councils, gain their recommendations or petitions to the king." These are the express words of that minister. And if under the greatest absolute monarchy of the world, in a country where the prince actually resides; if among heathens this be accounted a necessary part of government for the encouragement of virtue, shall it be denied to Christians living under a prince who resides in another nation? shall it be denied to a people, who have a right to liberty, and yet are not capable of any in their present circumstances, without this limitation? But we have formed to ourselves such extravagant notions of government, that even in a limited monarchy nothing will please, which in the least deviates from the model of France, and every thing else must stand branded with the name of commonwealth. Yet a great and wise people found this very condition of government necessary to support even an absolute monarchy. If any man say, that the empire of China contains divers kingdoms: and that the care of the emperor, and his knowledge of particular men cannot extend to all: I answer, the case is the same with us; and it seems as if that wise people designed this constitution for a remedy to the like inconveniences with those we labour under at this time.

"This limitation will undoubtedly enrich the nation, by stopping that perpetual issue of money to England, which has reduced this country

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to extreme poverty. This limitation does not flatter us with the hopes of riches by an uncertain project; does not require so much as the condition of our own industry; but by saving great sums to the country, will every year furnish a stock sufficient to carry on a considerable trade, or to establish some useful manufacture at home, with the highest probability of success; because our ministers by this rule of government, would be freed from the influence of English councils; and our trade be entirely in our own hands, and not under the power of the court, as it was in the affair of Darien. If we do not obtain this limitation, our attendance at London will continue to drain this nation of all those sums, which should be a stock for trade. Besides, by frequenting that court, we not only spend our money, but learn the expensive modes and ways of living, of a rich and luxurious nation: we lay out yearly great sums in furniture and equipage, to the unspeakable prejudice of the trade and manufactures of our own country. Not that I think it amiss to travel into England, in order to see and learn their industry in trade and husbandry. But at court what can we learn, except a horrid corruption of manners, and an expensive way of living, that we may for ever after be both poor and profligate?

"This limitation will secure to us our freedom and independence. It has been often said in this house, that our princes are captives in England; and indeed one would not wonder if, when our interest happens to be different from that of England, our kings, who must be supported by the riches and power of that nation in all their undertakings, should prefer an English interest before that of this country. It is yet less strange, that English ministers should advise and procure the advancement of such persons to the ministry of Scotland, as will comply with their measures and the king's orders; and to surmount the difficulties they may meet with from a true Scots interest, that places and pensions should be bestowed upon parliament men and others: I say, these things are so far from wonder, that they are inevitable in the present state of our affairs. But I hope they likewise shew us, that we ought not to continue any longer in this condition. Now this limitation is advantageous to all. The prince will no more be put upon the hardship of deciding between an English and a Scots interest; or the difficulty of reconciling what he owes to each nation, in consequence of his coronation oath. Even English ministers will no longer lie under the temptation of meddling in Scots affairs: nor the ministers of this kingdom, together with all those who have places and pensions, be any more subject to the worst of all slavery. But if the influences I mentioned before shall still continue, what will any other limitation avail us? what shall we be the better for our Act concerning the power of War and Peace: since by the force of an English interest and influence, we cannot fail of being engaged in every war, and neglected in every peace?

"By this limitation, our parliament will become the most uncorrupted senate of all Europe. No man will be tempted to vote against the interest of his country, when his country shall have all the bribes in her own hands; offices, places, pensions. It will be no longer necessary to lose one half of the public customs, that parliament-men may be made collectors. We will not desire to exclude the officers of state from sitting in this house, when the country shall have the nomination of them; and our parliaments, free from corruption, cannot fail to redress all our grievances. We shall then have no cause to fear a refusal of the royal assent to our acts; for we shall have no evil counsellor, nor enemy of his country to advise it. When this condition of government shall take place, the royal assent will be the ornament of the prince, and never be refused to the desires of the people. A general unanimity will be found in this house; in every part of the government, and among all ranks and conditions of men. The distinctions of court and country-party shall no more be heard in this nation; nor shall the prince and people any longer have a different interest. Rewards and punishments will be in the hands of those who live among us, and consequently best know the merit of men; by which means virtue will be recompensed and vice discouraged, and the reign and government of the prince will flourish in peace and justice.

"I should never make an end, if I would prosecute all the great advantages of this limitation; which, like a divine influence, turns all to good, as the want of it has hitherto poisoned every thing, and brought all to ruin. I shall therefore only add one particular more, in which it will be of the highest advantage to this nation. We all know, that the only way of enslaving a people is by keeping up a standing army; that by standing forces all limited monarchies have been destroyed, without them none; that so long as any standing forces are allowed in a nation, pretexts will never be wanting to increase them; that princes have never suffered militias to be put upon any good foot, lest standing forces should appear unnecessary. We also know that a good and well regulated militia is of so great importance to a nation, as to be the principal part of the constitution of any free government. Now by this limitation, the nation will have a sufficient power to render their militia good and effectual, by the nomination of officers: and if we would send a certain proportion of our militia abroad yearly, and relieve them from time to time, we may make them as good as those of Switzerland are; and much more able to defend the country, than any inactive standing forces can be. We may save every year great sums of money, which are now expended to maintain a standing army; and which is yet more, run no hazard of losing our liberty by them. We may employ a greater number of officers in those detachments, than we do at present in all our forces both at home and

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abroad; and make better conditions for them in those countries that need their assistance. For being freed from the influences of English councils, we shall certainly look better than we have hitherto done to the terms on which we may send them into the armies either of England or Holland; and not permit them to be abused so many different ways, as to the great reproach of the nation they have been, in their rank, pay, clothing, arrears, levy-money, quarters, transport ships and gratuities.

"Having thus shewn some of the great advantages this limitation will bring to the nation (to which every one of you will be able to add many more) that it is not only consistent with monarchy, but even with an absolute monarchy; having demonstrated the necessity of such a condition in all empires, which contain several kingdoms; and that without it we must for ever continue in a dependence upon the court of England; in the name of God, what hinders us from embracing so great a blessing? Is it because her majesty will refuse the royal assent to this act? If she do, sure I am, such a refusal must proceed from the advice of English counsellors; and will not that be a demonstration to us, that after her majesty and heirs of her body, we must not, cannot any longer continue under the same prince with England? Shall we be wanting to ourselves? Can her majesty give her assent to this limitation upon a successor before you offer it to her? Is she at liberty to give us satisfaction in this point, till we have declared to England by a vote of this house, that unless we obtain this condition, we will not name the same successor with them? And then will not her majesty, even by English advice, be persuaded to give her assent; unless her counsellors shall think fit to incur the heavy imputation, and run the dangerous risk of dividing these nations for ever? If therefore either reason, honour or conscience have any influence upon us; if we have any regard either to ourselves or posterity; if there be any such thing as virtue, happiness or reputation in this world, or felicity in a future state, let me adjure you by all these, not to draw upon yours heads everlasting infamy, attended with the eternal reproaches and anguish of an evil conscience, by making yourselves and your posterity miserable."

The following Speeches by Mr. Fletcher, being upon the same subject, are inserted here, though not in the order of time in which they were spoken:

"My Lord Chancellor; I am sorry to hear what has been just now spoken from the throne. I know the duty I owe to her majesty, and the respect that is due to her commissioner; and therefore shall speak with a just regard to both. But the duty I owe to my country obliges me to say, that what we have now heard from the throne, must of necessity proceed from English councils. If we had demanded that these limitations should take place during the life of her majesty, or of the heirs of her body, perhaps we might have no great reason to complain, though they should be refused. But that her majesty should prefer the prerogative of she knows not who, to the happiness of the whole people of Scotland; that she should deny her assent to such conditions of government as are not limitations upon the crown of Scotland, but only such as are absolutely necessary to relieve us from a subjection to the court of England, must proceed from English councils; as well because there is no Scots minister now at London, as because I have had an account, which I believe to be too well grounded, that a letter to this effect has been sent down hither by the lord treasurer of England, not many days ago. Besides, all men who have lately been at London, well know, that nothing has been more common, than to see Scots-men of the several parties addressing themselves to English ministers about Scots affairs; and even to some ladies of that court, whom for the respect I bear to their relations I shall not name. Now, whether we shall continue under the influence and subjection of the English court; or whether it be not high time to lay before her majesty, by a vote of this house, the conditions of government upon which we will receive a successor, I leave to the wisdom of the parliament. This I must say, that to tell us any thing of her majesty's intentions in this affair, before we have presented any act to that purpose for the royal assent, is to prejudge the cause, and altogether unparliamentary. I will add, that nothing has ever shewn the power and force of English councils upon our affairs in a more eminent manner at any time, since the Union of the crowns. No man in this house is more convinced of the great advantage of that peace which both nations enjoy by living under one prince. But as on the one hand, some men for private ends, and in order to get into offices, have either neglected or betrayed the interest of this nation, by a mean compliance with the English court; so on the other side it cannot be denied, that we have been but indifferently used by the English nation. I shall not insist upon the affair of Darien, in which, by their means and influence chiefly, we suffered so great a loss both in men and money, as to put us almost beyond hope of ever having any considerable trade; and this contrary to their own true interest, which now appears but too visibly. I shall not go about to enumerate instances of a provoking nature in other matters, but keep myself precisely to the thing we are upon. The English nation did, some time past, take into consideration the nomination of a successor to that crown; an affair of the highest importance, and one would think of common concernment to both kingdoms. Did they ever require our concurrence? Did they ever desire the late king to cause the parliament of Scotland to meet, in order to take our advice and consent? Was not this to tell us plainly, that we ought to be concluded by their determinations, and were not worthy to be consulted

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in the matter? Indeed, my Lord Chancellor, considering their whole carriage in this affair, and the broad insinuations we have now heard, that we are not to expect her majesty's assent to any limitations on a successor (which must proceed from English counsel) and considering we cannot propose to ourselves any other relief from that servitude we lie under by the influence of that court; it is my opinion, that the house come to a resolution, 'That after the 'decease of her majesty, heirs of her body 'failing, we will separate our crown from that 'of England.'"

"My Lord Chancellor; That there should be limitations on a successor, in order to take away our dependance on the court of England, if both nations should have the same king, no man here seems to oppose. And I think very few will be of opinion that such limitations should be deferred till the meeting of the nation's representatives, upon the decease of her majesty. For if the successor be not named before that time, every one will be so earnest to promote the pretensions of the person he most affects, that new conditions will be altogether forgotten. So that those who are only in appearance for these limitations, and in reality against them, endeavour for their last refuge to mislead well-meaning men, by telling them, that it is not advisable to put them into the Act of Security, as well for fear of losing all, as because they will be more conveniently placed in a separate act. My Lord Chancellor, I would fain know if any thing can be more proper in an act which appoints the naming and manner of admitting a successor, than the conditions on which we agree to receive him. I would know, if the deferring of any thing, at a time when naturally it should take place, be not to put a slur upon it, and an endeavour to defeat it. And if the limitations in question are pretended to be such a burthen in the act, as to hazard the loss of the whole, can we expect to obtain them when separated from the act? Is there any common sense in this? Let us not deceive ourselves, and imagine that the act of 1696, does not expire immediately after the queen and heirs of her body; for in all that act, the heirs and successors of his late majesty king William are always restrained and specified by these express words, according to the declaration of the estates, dated the 11th of April 1689. So that unless we make a due provision by some new law, a dissolution of the government will ensue immediately upon the death of her majesty, failing heirs of her body. Such an act therefore being of absolute and indispensible necessity, I am of opinion, that the limitations ought to be inserted therein as the only proper place for them and surest way to obtain them: and that whoever would separate them does not so much desire we should obtain the act, as that we should lose the limitations."

"My Lord Chancellor; When our kings succeeded to the crown of England, the ministers of that nation took a short way to ruin us, by concurring with their inclinations to extend the prerogative in Scotland; and the great places and pensions conferred upon Scots-men by that court, made them to be willing instruments in the work. From that time this nation began to give away their privileges one after the other, though they then stood more in need of having them enlarged. And as the collections of our laws, before the union of the crowns, are full of acts to secure our liberty, those laws that have been made since that time, are directed chiefly to extend the prerogative. And that we might not know what rights and liberties were still ours, nor be excited by the memory of what our ancestors enjoyed, to recover those we had lost, in the two last editions of our acts of parliament the most considerable laws for the liberty of the subject are industriously and designedly left out. All our affairs since the union of the crowns have been managed by the advice of English ministers, and the principal offices of the kingdom filled with such men, as the court of England knew would be subservient to their designs: by which means they have had so visible an influence upon our whole administration, that we have from that time appeared to the rest of the world more like a conquered province, than a free independent people. The account is very short: whilst our princes are not absolute in England, they must be influenced by that nation: our ministers must follow the directions of the prince, or lose their places, and our places and pensions will be distributed according to the inclinations of a king of England, so long as a king of England has the disposal of them: neither shall any man obtain the least advancement, who refuses to vote in council and parliament under that influence. So that there is no way to free this country from a ruinous dependence upon the English court, unless by placing the power of conferring offices and pensions in the parliament, so long as we shall have the same king with England. The ancient kings of Scotland, and even those of France, had not the power of conferring the chief offices of state, though each of them had only one kingdom to govern, and that the difficulty we labour under, of two kingdoms which have different interests governed by the same king, did not occur. Besides, we all know that the disposal of our places and pensions is so considerable a thing to a king of England, that several of our princes, since the union of the crowns, have wished to be free from the trouble of deciding between the many pretenders. That which would have given them ease, will give us liberty, and make us significant to the common interest of both nations. Without this, it is impossible to free us from a dependence on the English court; all other remedies and conditions of government will prove ineffectual, as plainly appears from the nature of the thing; for who is not sensible of the influence of places and pensions upon all men and all affairs? If our ministers continue to be appointed by the English court, and

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this nation may not be permitted to dispose of the offices and places of this kingdom to balance the English bribery, they will corrupt every thing to that degree, that if any of our laws stand in their way they will get them repealed. Let no man say, that it cannot be proved that the English court has ever bestowed any bribe in this country. For they bestow all offices and pensions; they bribe us, and are masters of us at our own cost. It is nothing but an English interest in this house, that those who wish well to our country, have to struggle with at this time. We may, if we please, dream of other remedies; but so long as Scots-men must go to the English court to obtain offices of trust or profit in this kingdom, those offices will always be managed with regard to the court and interest of England, though to the betraying of the interest of this nation, whenever it comes in competition with that of England. And what less can be expected, unless we resolve to expect miracles, and that greedy, ambitious, and for the most part necessitous men, involved in great debts, burthened with great families, and having great titles to support, will lay down their places, rather than comply with an English interest in obedience to the prince's commands? Now to find Scots-men opposing this, and willing that English ministers (for this is the case) should have the disposal of places and pensions in Scotland, rather than their own parliament, is matter of great astonishment; but that it should be so much as a question in the parliament, is altogether incomprehensible; and if an indifferent person were to judge, he would certainly say we were an English parliament. Every man knows that princes give places and pensions by the influence of those who advise them. So that the question comes to no more than, whether this nation would be in a better condition, if in conferring our places and pensions the prince should be determined by the parliament of Scotland, or by the ministers of a court, that make it their interest to keep us low and miserable. We all know that this is the cause of our poverty, misery and dependence. But we have been for a long time so poor, so miserable and depending, that we have neither heart nor courage, though we want not the means, to free ourselves."

Mr. Fletcher's Speeches upon the Wine Act.] Mr. Fletcher of Saltoun, made the following Speeches upon this subject:

"My Lord Chancellor;—This is an act for repealing a law made in the year 1700, which prohibits the importation of French wines. We were then in peace with France, and are now in a declared war against them. The prohibition was made in time of peace, because the French laid greater impositions upon our trade than they did upon other nations: and yet 'tis desired, that French wines may be imported in time of war; though not only the same, but new burdens are laid upon our merchandize in France. 'Tis pretended that we shall not trade to France directly, but may buy French wines from certain nations, who trade to that country with our goods. I will allow all this, though it be false; but where is the necessity we should take French wines from those nations for our commodities? Have they not copper, iron, pitch, tar, hemp, flax, and timber for building of ships and other uses, which we need? or if our consumption of these things will not answer the value of those goods they take of us, may we not export the overplus to other parts? Since therefore the same, or greater impositions continue still upon our merchandize in France, so as we cannot get of those neutral nations so high a price for our goods, as if the impositions in France were taken off, the reason of the law made in 1700 still remains. And if we had sufficient cause to prohibit the importation of French wines by our own ships in time of peace, shall we purchase French wines from other nations in time of war? The French would not receive our goods in time of peace, upon equal terms with those of other nations, which obliged us to forbid their wines: shall we now take them at a double value in time of war? or are we become greater friends to France now in a time of open war, than we were before in time of peace? Something might be said, if no wines were to be found in Portugal or Italy. But it seems no wine will please us, but that of a country, against which we are in actual war, and which uses us ill both in peace and war. One would have thought that the past services of a nation, which has more than once saved that base people from ruin, might have obliged them to a more favourable usage of us. But the world will say, we are yet a baser people than they, if whilst they continue to suppress our trade, we repeal a law, for which we have now more and better reasons than when we made it. To repeal such a law in time of war, will sound admirably well in England and Holland: since it is no less than a direct breach of our alliance with those nations; a formal renunciation of any advantages we may pretend in a treaty of peace, and exactly calculated to inform the world of the inclinations of our ministers. If we would trade to Portugal and Italy, we should have the benefit of the English and Dutch convoys. We might trade in our own ships, not in Swedes, Danes, and Hamburghers, to the ruin of our navigation. For if they drive our trade for us, we may indeed burn our ships and plow our towns, as has been told us. And therefore I move that this act, as prejudicial to our trade and navigation, and highly injurious to the honour of the nation, may be thrown out."

"My Lord Chancellor;—One would think that of all men lawgivers should be of the most undoubted probity, and that selfish ends and disingenuity should have no place in their assemblies. For if those who give laws to other men, have not the good of the nations they govern in view, but are ready to sacrifice

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every thing to their own private interest, such a scandalous conduct must be of the last consequence to a government, by alienating the affections of the people from those who shall be found guilty of such practices. My Lord, no man in this house can be ignorant, that this act will not only open a trade and correspondence with France, contrary to the declaration of war, and our own standing laws; but that the design of those who promote the passing of this act is to have a trade directly with France. It is known that Scots ships are already loading wines at Bourdeaux for this kingdom; and that a French factor is already arrived in this city. Besides, it is notorious, that a ship belonging to this port, and freighted with wines from France, is now lying in Queensferry-road, not eight miles from this place. She pretends indeed to be a Dane, because she came last from Norway; whither she was sent for no other reason than that she came too soon upon this coast. This ship has an officer and divers seamen on board, sent from one of our frigates for her guard, who have absolutely refused to permit the persons that were impowered by the admiralty to examine her, unless they should produce an order from the captain of the frigate, or from your lordship. And as if our act for the prohibition of French wines were already repealed, and our collectors, no less than our former kings, might dispense with the laws; another ship loaden with the wines of that country has been brought into the Clyde, and her lading into the city of Glasgow, during this session, in contempt of the law and the authority of the parliament. All this, and much more of the same kind, is well known to those who are in the administration, and seem not to think it their business to take notice of such practices. But I hope this house will not overlook these gross mismanagements; and since the executive part of the government is arrived to that state, that hardly any law is put in execution, the parliament, according to the many precedents we have in our acts, will give order for a better administration in time to come, and take effectual care that those who are placed in the highest trusts, shall see the laws duly executed; especially your lordship, who during the intervals of parliament, as the principal person in the government, ought to be answerable to the nation for their due execution. Now the great argument which is used for allowing the importation of French wines is, that we shall certainly have the wines of that country, though very bad and very dear, if the prohibition be continued. Which is only to say, we have no government among us. Two good laws were made in the year 1700. One against the exportation of our wool, the other against the importation of French wines: the first to give a being to a woollen manufacture in this kingdom, the latter to vindicate our trade against the impositions of France. We have already rendered the one ineffectual, to the ruin of our woollen manufacture; Shall we now repeal the other? Shall we send them our wool, and buy their wines, and oblige them doubly for burdening and oppressing us in our trade? It is pretended that the customs arising from the importation of French wines must serve to pay the civil list, because the former duties are fallen one half of the usual value. A very cogent argument indeed! when we know that the customs have been taken from the farmers, only in order to bestow the collectors places upon parliamentmen. Shall we make good such funds as are exhausted, by bribing men to betray our liberty? If any justice were to be found in this nation, the advisers of these things had long since been brought to a scaffold. But as there is no crime under heaven more enormous, more treacherous, and more destructive to the very nature of our government, than that of bribing parliaments; so there is nothing more common and barefaced: and I think this session should have been opened by purging the house from such corrupted members; which if we had done, we had not met with so many difficulties and obstructions of the public service. But I hope we shall not be so remiss for the future. And for the present, my lord chancellor, I move, That this act for taking off the prohibition of French wines, as a design of the blackest nature, hurtful and ignominious to the nation, and highly reflecting on our ministers and administration, may be thrown out."

Mr. Fletcher's Speech on the Act for a Supply.] Mr. Fletcher said:

"My Lord Chancellor; I am not surprized to find an Act for a Supply brought into this house at the beginning of a session. I know custom has for a long time made it common. But I think experience might teach us, that such acts should be the last of every session; or lie upon the table, till all other great affairs of the nation be finished, and then only granted. It is a strange proposition which is usually made in this house; that if we will give money to the crown, then the crown will give us good laws: as if we were to buy good laws of the crown, and pay money to our princes that they may do their duty, and comply with their coronation oath. And yet this is not the worst; for we have often had promises of good laws, and when we have given the sums demanded, those promises have been broken, and the nation left to seek a remedy; which is not to be found, unless we obtain the laws we want, before we give a Supply. And if this be a sufficient reason at all times to postpone a money-act, can we be blamed for doing so at this time, when the duty we owe our country, indispensably obliges us to provide for the common safety in case of an event, altogether out of our power, and which must necessarily dissolve the government, unless we continue and secure it by new laws; I mean the death of her majesty, which God in his mercy long avert? I move therefore, that the house would take into consideration what acts are necessary to secure our religion, liberty, and trade,

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in case of the said event, before any Act of Supply, or other business whatever be brought into deliberation."

Mr. Fletcher's Speech, upon the State of the Nation.] To the preceding Speeches of Mr. Fletcher we shall add the following, which was made by him in April, 1701.

"Gentlemen; It seems at first view hard to determine, whether you would be more obliged to one who should persuade you of the miserable and irretrievable condition, into which you are precipitating yourselves, and the rest of Europe; or to him, who after you are convinced, should shew you how to escape. But as it is a much more difficult work to convince you of the true state of your affairs; so it seems to have this advantage, that when you know your danger, the frightful and terrible circumstances of your present condition will certainly make you improve every opportunity, and lay hold upon every thing that may in the least contribute to save you: and this will be the more easy for you to do, since such means are now in your power, as could hardly be expected on the like occasion; and which, if you neglect, you have resolved your own ruin. You were formerly convinced, that the French king was a dangerous neighbour, powerful and vigilant; that there was no end of his designs, no relying on his treaties; that he could corrupt not only those who under your princes had the management of public affairs, but even your princes themselves. The least increase of his power at sea, every inconsiderable fort taken by him in Flanders, alarmed you in the highest degree. You were jealous of his secret treaties with your princes, and so industrious, that you discovered one in which the abolition of parliaments, and suppression of your liberties were expressly stipulated; provided England would remain his ally, and not oppose the designs he had formed against the house of Austria, and the rest of Europe. You were then alarmed that no care was taken of the Protestant religion abroad, and began from thence, and the debaucheries of your princes, to suspect them of inclining to a religion that allows men to live ill, and consecrates the arbitrary power of kings. But now, as if there were not the least ground to suspect any of these things, you are very easy: you concur with the designs of France and the court in every thing. France is too powerful to be opposed; you are too poor, and too much in debt to make war. Yet France has seized the whole Spanish monarchy; and, if suffered to enjoy it quietly, he who formerly was able to oppose, may hereafter trample on the rest of mankind. It is no longer Conde, Linck, and the sluices of Newport he pretends; his troops till Brussels, Antwerp, and the Spanish Gelderland. Ostend and Newport are by our good conduct added to Dunkirk, in order to receive his royal fleets, and harbour his pirates, who are to enrich themselves with the ruin of our trade. In this state of things you are for preserving the peace of Europe; which would be yet much better secured by your slavery. When king Charles 2 went to Dover, and the French king came to Calais, gallantry and diversion seemed to be the only business of the two courts. It was not then and in those places publicly known that there was a secret treaty, yet you not only suspected one, but the design and intention of it also; and your suspicions were found to be well grounded. Now though two great armies have been witnesses that the Mareschal de Boufflers and earl of Portland were for several days imployed in making a treaty, and sure it was a secret one, since none of you yet know what it was, you have not to this day taken the least notice of it. But can any man suspect the minister of a prince, who is said to have rejected a crown, and that of no contemptible country, by refusing to join in that very treaty of Dover? Can he, that in a private condition resisted the arts of France, be supposed, now he is master of three kingdoms, and of a powerful state, to risk them all at once, and yield to those arts he before despised? To this, whatever other answer I could give, I shall only say at present that we have always but too just ground to suspect all secret and close negotiations with France. But it seems you thought it not worth your inquiry, whether these negotiations were for your advantage or ruin. You will say, what ground was there of suspicion? for nothing appeared. I say, that of all others was the greatest. But who was it, that first as commissionated, and after as embassador, was employed to treat? Was he an Englishman? And how were the plenipotentiaries of this nation used at the formal treaty? Were they not as pageants brought in to attend the show? Or as so many cyphers, that without the Dutchmen, who made the figure, could signify nothing? Yet this advantage we had, that the king having not been owned till the conclusion of the treaty, the abandoning of the Protestant religion at Reswick cannot with any colour of justice be imputed to English ministers, but only to the plenipotentiaries of Holland: and you could not by any means conceive or entertain the least suspicion of indirect dealing in the private treaty, when you saw yourselves and your religion so fairly dealt with in that which was public. Yet methinks, the abandoning of our ancient allies, and entering into the closest and most entire correspondence with France that has ever been seen between the two courts, ought to have moved you a little, and made you doubtful that a bargain was struck, unless you can think France incapable of entering into any that may be to your disadvantage. Here indeed I know not what to say for you: and the best account I can give of your careless indifference, must be to set before you your present condition; which yet I fear will both offend and terrify you; I wish it may not throw you into despair. But such distempers are only to be cured by violent remedies: and I had rather venture your displeasure in doing my duty, than

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obtain the friendship of your enemies by omitting it. It is then thus. The English nation have now nothing remaining but the outward appearance and carcase, as I may call it, of their ancient constitution. The spirit and soul is fled. Jealousy for public liberty is vanished. The court has so often renewed the same arts, methods and councils, and so often made trial of the several parties in the kingdom, as well as of the alliance of France, in order to compass their ends, that the nation begins to grow weary of opposing the same things, and very wisely thinks there can be no danger of such attempts as have so often failed. Besides, you are grown weary of that old and antiquated care and concernment for the public: or at least have given it a new and better turn. Some of you improving your morals, which are so necessary for the preservation of liberty, in constant gaming, as others do their politics and skill in military matters by laying wagers. And even stock-jobbing makes you deeply concerned for the public affairs. Long sessions of parliament furnish great opportunities of knowing the interests of the several parties; by which you must needs know that of the nation, since the nation is made up of parties. And the court, by frequent shifting from one party to another, has forced you to double your attendance upon them. So that as well those who are at this time to go off the guard, as those who are coming on, being equally willing, the one to continue, and the other to enter upon duty, the court craftily keeps both parties under arms, whilst the country has nothing to trust to, but a weak, unpaid and disorderly militia party. And now I think I have sufficiently shewn the causes of your present indifference; since having so much business at home, you can hardly attend to what is doing abroad. Yet one would think that a certain affair transacted abroad, in which your ministers are said to have had no small part, and which has made so great a noise in the world, might deserve a little consideration, and oblige you to make some reflection upon the motives of that undertaking. Especially since it is of so extraordinary a nature, as to be the first of the kind, and like to prove of such consequence, as may involve the world in troubles and calamities, which perhaps may be of equal duration with its frame. And though, as a prodigious comet, it has alarmed the rest of the world, you did not see it 'till of late, and it is already vanished by the shutting of your eyes. As to what it may portend, you think it as foolish to enquire, as wise men do to attend the dreams of astrologers. In this I wish I could defend you; but that being utterly impossible, there remains nothing to be done, except only charitably to undeceive you, and shew, if you had time to spare from your great application to maintain the interests of your several parties, what consequences you must necessarily draw from things you all know and acknowledge. By this time you see it is the Partition-Treaty I mean. I say then that from the first appearance of that treaty, it was not only evident, but foretold by thousands even of the most ordinary capacity, that it would unavoidably throw the whole Spanish monarchy into the house of Bourbon. If some men of more penetration did happen so far to refine, as to put any other construction upon the treaty, it only proceeded from a charitable opinion they had taken up, that the design could not be so black, as it has since appeared by the conduct of most of the partitioners, ever since the death of the king of Spain: which has demonstrated to the world with what intention it was made. The letter of this treaty tells us of preserving the peace of Europe by dismembering the Spanish monarchy; but the spirit throws it intire into the family of Bourbon, intails an endless war upon Christendom, breaks the balance, which has preserved its liberty for two hundred years, and will consequently banish all remains of freedom both civil and religious from among men. This treaty like an alarum-bell rung over all Europe: Pray God it may not prove to you a passing-bell. Poor helpless Spain, rather than divide the child, chose to give it intire to the harlot, to whom it did not belong. And she has got it; for the Solomon who commanded to divide the child, did it not in order to do justice. Instead of the preservation of the peace of Europe, for no great mischief was ever designed, but piety was still pretended, Europe must from this time be either in a posture of war, and so consumed by taxes; or in actual war, wasted by bloodshed and rapine, 'till she be forced to hold out her hands to the shackles, and submit to a worse condition. These are the glorious works of such governors as the world thinks they cannot be without; perhaps too truly: I mean those who are to execute God's judgments upon them. It is evident a treaty was made, which if it had taken effect even in the plain meaning of the words, had broken the balance of Europe, and destroyed your trade in the Mediterranean, under the plausible pretence of avoiding a greater evil, into which it was contrived to throw you. Yet after all, you are positively resolved to rely upon the faith of those who contrived and concerted this, and obstinately bent to continue in peace, when the rest of Europe are to make the last push for their liberty. As those who are marked out for ruin are first bereft of understanding; so you who see nothing but sham upon sham played upon you, seem to be altogether uncapable of making the least reflection to what end they are designed.

"You plainly see that those who have the direction of your affairs, have broken the balance of Europe, and delivered a great part of the world into the hands of France. Yet to this hour it cannot enter into your heads that this was done for any end, nor can you allow it the least reflection. It is true, wise men love not to determine suddenly: you take yet a surer way not to mistake in your determination, which is, not to think. It is commonly said, that in this world nothing is to be had for no-

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thing: but you make no doubt, that almost one half of the world may be given for nothing. The proverb I own is meant of money, and of private persons: but you are of opinion, that princes may be more disinterested, and less wise; or at least, that it is not much your business to enquire whether it be so or not. Besides, there is nothing to direct you in an enquiry touching this whole affair, there being no manner of resemblance between this treaty and that of Dover. For though the French king was a party concerned in both; yet he is now grown old, and would willingly, if you permit, pass the rest of his days in peace, and only apply himself to redress the disorders, and restore the vigour of the Spanish monarchy. The condition of the Dutch is much altered since the Dover treaty; for then they were partitioned, but now they are risen to the quality of partitioners. And we are in absolute security that nothing can be stipulated to our prejudice, since he who then gloriously refusing a crown, broke the measures of king Charles and of France, now treats for us, and remains still as generously disinterested as ever, no advantage appearing to accrue by the treaty either to him or his. So that the Dover treaty affording no light at all in this affair, it still remains an impenetrable mystery, why France is allowed so many rich provinces in possession, and so many in reversion. For if the duke of Anjou be any more than a viceroy, it is in the power of his grandfather to make him less, and dispose of him and his dominions at pleasure. But I have found the secret. You will say, pray what is it? What you might have found out as well as I, if you had any goodness in you. It was the pious design of preserving the peace of Europe, on which you see the whole treaty is founded. You will answer; all the world knows this as well as you. Ay; but you do not sufficiently reflect upon the eminent degree of that piety so clearly demonstrated in a perfect resignation of all that the world calls honour and security, in order to continue the peace and quiet of the poor people of Europe. This was the thing that made us first sacrifice the balance of Christendom, together with a considerable part of our trade. After which, when, by the perfidiousness of our new allies, this treaty, that had cost us such a sacrifice to obtain, was impudently broken to the ruin of the balance, and putting ourselves and ancient allies into the most imminent dangers, we took so high an affront, so irreparable an injury with such an absolute resignation, and exemplary patience, as neither by word or deed to shew the least mark of resentment. But like true Christians, that we might do good to those who used us despitefully, and by ways of meekness and condescension, bring them back to a sense of what they owe to us, we delayed the calling of the great council of the nation, till they had sent the new king to his kingdom, and put themselves into a posture of seizing Milan and Flanders, which they have since effected. And now we are so moderate, to ask only a most inconsiderable or rather ridiculous security: perhaps because the French king is now become more solvent. Truly, if we design not to enter into a war we need not be nice upon any security; for all securities are alike, if France be permitted to increase in power. As to the security of a fleet, I say, that a people, who are resolved to have peace with their neighbours, at a time when it is highly the interest of their neighbours to keep peace with them, stand not in need of a fleet, unless it be to make a war of taxes upon themselves. And if the enemy contrary to his present interest, should unite his whole sea-force to attack us, such a fleet as we are now setting out, is exactly calculated to receive damage and affront. But peace, cautionary towns, and moderate fleets will secure our trade, till we have freed ourselves from debt, and are grown so rich, that we can make war when we please. That is, after our enemies shall have disabled all those that we may now have for our allies, and be at leisure to deal with us alone. The honour indeed will be great to be single in the attack, against a power that has baffled the rest of the world: but I fear the danger will be no less; for they always go hand in hand. You'll ask perhaps, what one would have the nation do? Both houses have damned the treaty; and some considerable men may possibly be punished for it. I know there is yet more done; for by excusing the late chancellor, the blame is thrown upon the king; since in all free governments, somebody must be answerable for whatever is done with relation to the public. But hitherto nothing has been so much as thought of to retrieve us from that ruin, into which the treaty throws us. This is that, which one might justly expect from the nation; and not that they should content themselves with railing at the treaty, whilst they are allowing and concurring in the execution of the real and pernicious design of it. Some will say; let the emperor and the Dutch be principals in this war; we who formerly were at the greatest expense in opposing France, will now be accessaries, and come in when we think fit. It would seem by this reasoning, that the power of France is diminished, and that you can overtake the growth of it when you please. Who told you that the Dutch, if they find themselves abandoned by you now, will not for the sake of their trade resolve to have peace at any rate? If the emperor be abandoned by both, is not the business at an end? What business? All opposition, by which the French may be hindered from bringing the affairs of Spain into order, and uniting those vast dominions to their empire. And this naturally leads me again to consider what return may be expected for the contrivance and execution of a treaty so infinitely advantageous to France. For whatever I have said before of a certain pious design; I fear I shall hardly persuade this wicked age of it. And though the Heathens thought virtue a sufficient reward for itself; yet the christian religion with more truth and solidity has accompanied it with other advantages. If

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then the dominions accruing to France by this treaty, may justly be accounted the greatest that ever were procured for any nation, the returns ought certainly to be the greatest that can be made; or such as the benefactor puts the highest value upon. You'll say, 'tis hard to judge of them; and that if I would insinuate any thing by the mention I made of the Dover treaty, the insinuation is ridiculous in a weakly man, without any probability of issue. I answer, if there should be such a tendency, I hope you do not take it for a virtuous inclination, and consequently ought to judge of it by the temper of the person, and the unreasonableness of every vicious disorder of the mind. No well-natured, generous, unthinking people, can ever penetrate the thoughts of a designing man. Does not an old miser, even though he want issue, increase in covetousness to the last hour of his life? Is ambition a less passion than avarice? Is not the conquest of free men more noble than that of slaves? Did ever any hero refuse to die in a great battle in which kingdoms and powerful states were to fall with him, and serve for trophies to his hearse? But I will shew you the thing in another view, which perhaps will suit better with your temper and disposition. You all say, every prince would be absolute; and this inclination you think so agreeable to the nature of man, that no one can be without it. And indeed it would be strange you should trust them with so much power, under the greatest temptations of employing it that way, if you thought it a great crime to do so. Besides, 'tis not their interest to use arbitrary power cruelly. And you do not know what condition a prince, who in order to good designs should obtain it, might at his death leave you: perhaps in greater liberty than you ever enjoyed. If then pursuant to these or the like thoughts his M—— should have judged that the monarchy of Spain will prove a burden to the French, and rather weaken than strengthen them; by exhausting their treasures and men in defending and repeopling those countries: If he should have considered, that nothing can so effectually oppose the greatand growing power of France, as the united and neighbouring force of England and Holland; countries abounding in people, riches, and store of shipping; provided that force were upon a right foot, as well in respect to secrecy, as the unanimity of counsel and command, flowing from an unjarring direction, not subject to the storms of a H—— of C—— or the capricio's of a free people, little conversant in foreign affairs; (which you will allow to be a very natural thought in a prince.) I say, if upon these considerations, the K—— seeing the confederacy falling to pieces, and open force ineffectual, proposed to himself, in order to obtain an advantageous peace, and lay a sure foundation for the destruction of France, to blind them with the ruinous phantom of Spain, and promise to enter into any measures they should propose, in order to deliver it to them, in case they would assist him to establish himself both here and in Holland. Was this design so criminal? Or could France do less for such a benefactor? I am afraid, I have put such a mask of innocence on this affair, that you will begin to like it. And in an age, when divisions and exchanges of countries are so frequently mentioned, who knows, whether the agreement may not be, to unite the whole seventeen provinces to the crown of England, and in lieu of them to give the kingdom of Portugal to Spain, which is a country as much more convenient for Spain than Flanders, as accession of strength is more advantageous than ruin. What a glorious government would the three kingdoms and the seventeen provinces be? Might they not, when united under one wise and absolute prince (for people of such different tempers, and so emulous of each other in trade, seem necessarily to require it) bid defiance not only to France, but to the world? Might they not for ever establish in themselves the empire of the sea, with an entire monopoly of trade; especially if it should please him to crown all his other actions, by leaving them possessed of such immunities as might secure the continuation of their trade for ever? Is there, after all, such a probable way of resisting the power of France? Or is it not the only way of saving both us and our religion, which is our main concern? you being men of understanding, I resolve to leave it thus with you, though you should think me a courtier. For according to the judgment you shall make of what I have said, it will appear, whether it be possible to save you or not, and consequently whether it be to any purpose to give you or myself any farther trouble.

1704.

July 6, 1704. The Parliament of Scotland met at Edinburgh, and her Majesty's Commission to the right honourable the marquis of Tweedale, for representing her royal person in this session of parliament, was read by the Lord Clerk-Register, and ordered to be recorded.

The Queen's Letter to the Scotish Parliament.] July 11. They met again, and her Majesty's Letter was presented by his grace the Lord High Commissioner, which follows in this manner:

"My Lords and Gentlemen; Nothing has troubled us more since our accession to the crowns of these realms, than the unsettled state of affairs in that our ancient kingdom.—We hoped, that the foundations of the differences and animosities that, to our great regret, we discovered among you, did not lie so deep, but that by the methods we have proceeded in, they might have been removed.—But, instead of success in our endeavours, the rent is become wide; nay, divisions have proceeded to such a height, as to prove matter of encouragement to our enemies beyond sea, to employ their emissaries among you, in order to debauch our good subjects from their allegiance, and to render that our antient kingdom a scene of blood and

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disorder, merely (as they speak) to make you serve for a diversion.—But we are willing to hope, that none of our subjects, but such as were obnoxious to the laws for their crimes, or men of low and desperate fortunes, or that are otherwise inconsiderable, have given ear to such pernicious contrivances. And we have no reason to doubt of the assurances given us by those now entrusted with our authority, that they will use their utmost endeavours to convince our people of the advantages and necessity of the present measures: for we have always been inclined to believe, that the late mistake did not proceed from any want of duty and respect to us, but only from different opinions as to measures of government.—This being the case, we are resolved, for the full contentment and satisfaction of our people, to grant whatever can in reason be demanded, for rectifying of abuses, and quieting the minds of all our good subjects.—In order to this, we have named the marquis of Tweedale our Commissioner, he being a person of whose capacity and probity, or qualifications and dispositions to serve us and the country, neither we nor you can have any doubt. And we have fully empowered him, to give you unquestionable proofs of our resolution to maintain the government both in church and state, as by law established, in that our kingdom; and to consent to such laws as shall be found wanting for the further security of both, and preventing all encroachments on the same for the future.—Thus, having done our part, we are persuaded that you will not fail to do yours, but will lay hold on this opportunity, to shew to the world the sincerity of the professions made to us, and that it was the true love of your country, and the sense of your duty to it, and therefore not the want of duty to us, (for we shall always reckon these two inconsistent) that was at the bottom of the late misunderstandings.—The main thing that we recommend to you, and which we recommend to you with all the earnestness we are capable of, is the settling the succession in the Protestant line, as that which is absolutely necessary for your own peace and happiness, as well as your quiet and security in all our dominions, and for the reputation of our affairs abroad; and consequently for the strengthening the Protestant interest every where.—This has been our fixed Judgment and resolution ever since we came to the crown; and though hitherto opportunities have not answered our intention, matters are now come to that pass, by the undoubted evidence of the designs of our enemies, that a longer delay of settling the succession in the Protestant line, may have very dangerous consequences: and a disappointment of it would infallibly make that our kingdom the seat of war, and expose it to a devastation and ruin.—As to terms and conditions of government, with regard to the succession, we have empowered our Commissioner to give the royal assent to whatever can in reason be demanded, and is in our power to grant, for securing the sovereignty and liberties of that our ancient kingdom.—We are now in a war, which makes it necessary to provide for the defence of the kingdom, the time of the funds that were lately given for maintenance of the land-forces being expired, and the said funds exhausted, provision ought also to be made for supplying the magazines with arms and ammunition, and repairing the forts and castles, and for the charge of the frigates, that prove so useful for guarding the coasts.—We earnest recommend to you whatever may contribute to the advancement of true piety, and the discouragement of vice and immorality; and we doubt not but you will take care to encourage trade, and to improve the product and manufactories of the nation: In all which, and every thing else that can be for the good and happiness of our people, you shall have our hearty and ready concurrence. We shall only add, that unanimity and moderation in all your proceedings will be of great use, for bringing to a happy issue the important affairs that we have laid before you, and will also be acceptable to us; So we bid you heartily farewell.—Given at our Court at Windsor Castle, the 25th day of June, 1704. And of our reign the third year."

The Lord High Commissioner's Speech.] This done, her Majesty's High Commissioner made the following Speech:

"My Lords and Gentlemen; You have heard the queen's gracious Letter; her Majesty therein expresses such a concern for the good and welfare of this nation, and gives such unquestionable proofs of it, as prevents even your wishes. I do not in the least doubt, but when you duly consider the import of this letter, you will be all of the same mind with me, that it is now in our power to make ourselves and our posterity happy.—Such, indeed, are her Majesty's gracious condescensions that, in order to obtain what is for our good, we need only propose it, provided you do it, as no doubt you will, with the regard and deference that are due to so gracious a sovereign, and that in your demands you keep within just and reasonable bounds, and ask nothing but what is in her Majesty's power to grant.—If there be any thing yet wanting for the better securing our Religion, and the present church government, as now by law established: or for the suppressing of vice, and encouraging of virtue: if any grievances to be redressed, and new laws found necessary, as I doubt not but there will, for rectifying of abuses crept into your constitution, or administration of the government, or any part of it, whether it be in policy or justice? or for removing all encroachments upon the sovereignty, or liberties of the nation, and the securing and preserving these entire and inviolable to ourselves and our posterity; I am fully empowered and entrusted, not only in these matters, to give you what reasonable satisfaction you can demand; but likewise in any thing that may be proposed, for improving of learning, the advancement of trade, and encouraging manufactories: so that, in effect,

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nothing hath escaped her Majesty's care, that can any ways contribute to make you a flourishing and happy people, she reckoning the welfare, peace and prosperity of her subjects, the only way to her own greatness and happiness.—And yet, as if all this were too little her Majesty extends her care for you further, in recommending to you, as you have heard, the settling the succession in the protestant line; and this her Majesty recommends to you with all the earnestness she is capable of, as that which is absolutely necessary for securing to yourselves, and transmitting to your posterity, your religion and liberties, or whatever else you have or can have that is valuable. Sure her Majesty can have no concern in this, but the interest of her people, which does so evidently require the settling of the succesion, and the settling of it at this time, that, I hope no true protestant, and lover of his country, will when he hath seriously thought on it, find just ground to oppose it.—Her Majesty having thus done her part, and in a manner so good and generous, and evidently disinterested, it remains that we fail not to do ours, by letting go this great opportunity, (which, if now lost, may possibly never be recovered) to deliver this nation from the inconveniences and hardships that it hath laid under ever since the union of the crowns, and which of late have grown heavier upon it.—Her Majesty hath also recommended to you the supplies that are wanting for the purposes mentioned in her letter, which I need not repeat; for sure there are none here, who are not convinced of the necessity of them, and who will not heartily concur in giving of them, notwithstanding the low circumstances the country is in at present; especially seeing her Majesty allows you to enquire into the misapplications of former funds given and appropriated by parliament, and to take such a course as may prevent the like for the future.—One thing more I have to add, and that is concerning the business of the plot, of which so great noise hath been made in our neighbour nation: her Majesty hath allowed me to acquaint you, that in due time the whole matter shall be laid before you, and that she hath given the necessary orders for having both the persons that have been examined in England, and the papers that relate to that affair, sent hither. Her Majesty doubts not but your enquiries into that plot, or any other practices of the like nature, will end in your laying down solid measures for preventing of them, or the fatal consequences of them in time to come; and as to any questions or contests that may arise upon such enquiries amongst you, her Majesty hopes, that you will manage them with all the temper and moderation that the nature of the thing will allow.—My Lords and Gentlemen, I have spoke long contrary to my way and inclination, and therefore I shall only add, in a word, as to myself, that I am very sensible of my unfitness for so great a trust; but since such is her Majesty's pleasure, I will do my best, and I shall esteem myself very happy, if I can any ways contribute to bring matters to any settlement in this nation. It is a great encouragement to me, I must own it, that the present opportunity, in a manner, enables me to give, at the same time, the greatest proofs that I can ever hope to give of my duty to her Majesty, my love to my country, and my respect to parliaments, in particular to this honourable meeting."

The Lord Chancellor's Speech.] The Lord High Commissioner having done, James, earl of Seafield, Lord High Chancellor, took the word, and spoke to this effect:

"My Lords and Gentlemen; You have heard her Majesty's most gracious letter, and what his grace my Lord-Commissioner hath been pleased to add; which do fully lay before you the weighty and great reasons, for which her Majesty hath been pleased to call you together at this time; and you must all be convinced, that the chief design of her Majesty's government is to advance the happiness and welfare of her people, and to protect them in the full possession and enjoyment of their religion and civil concerns.—Her Majesty doth, with a very tender and affectionate concern, lay before you the danger of divisions and animosities; and recommends to you to employ your thoughts for promoting what is for the security and advantage of the kingdom: and you cannot but be sensible, that our divisions must encourage our enemies abroad, to form designs to disturb the peace and tranquillity we now enjoy; and therefore ye will, no doubt, make use of this opportunity to convince all, that this nation is fixed and firm in their loyalty to her Majesty, and that all her good subjects will constantly support her government.—Her majesty doth, with great earnestness, recommend the settling of the succession to the crown in the protestant line, as what would be the surest foundation for the security of your religion and liberties, and will contribute greatly to the advancement of the protestant interest every where; and this being of so great consequence, it is not to be doubted, but that you will think this the fit opportunity for taking it under your consideration, while we have the advantage of being convened in peace under her Majesty's protection, and can deliberately consider what is the most profitable means for the future, to secure and preserve all that is valuable to us: and, for your further encouragement, you have heard how her Majesty hath given full instructions to her Commissioner, to grant such conditions of government, with regard to the successor, as can reasonably be demanded, for securing of the sovereignty and liberties of this kingdom; so that nothing is wanting on her Majesty's part, that is necessary for the establishment and security of this nation:—You know that her Majesty is engaged in a most just and necessary war, for the defence of the liberties of Europe, which makes it necessary that supplies be given for maintaining the forces, for repairing the forts and

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garrisons, for providing the magazines with arms and ammunition, and for maintaining the frigates, which have proved so useful for the guarding of your trade: all these being so plainly needful, it is not to be doubted, but that you will readily comply therewith. It is to be regretted, that the nation is in so low a condition; but what we give is necessary for our own defence, and will circulate within the kingdom; and her Majesty doth freely allow of taking inspection of the funds that have been given by parliament, and appropriated for the public use, and will take care, that what shall be now given shall be duly applied.—Her Majesty hath given frequent assurances of her resolution to maintain the established government of the church, and hath recommended to you to fall upon effectual means for discouraging of vice and immorality, and for encouraging true piety and religion, and providing for, and employing of the poor. The trade of the kingdom doth also deserve your serious consideration; for the advancement of which, and improvement of the product and manufactories of the kingdom, her Majesty gives you assurance of her ready concurrence.—My Lord Commissioner has acquainted you, that the Plot, which has made so great a noise here, and in our neighbour nation, shall be laid before you, with all its evidences: and it is not to be doubted, but that you will take care to do therein what is necessary for the discouraging of bad practices, which may tend to disturb the peace and quiet of this kingdom; and in all your proceedings in this matter, that you will avoid animosities, and make it your principal care to provide for the public security and peace.—My Lords and Gentlemen; I shall conclude with recommending to you again, the serious consideration of what her Majesty has so earnestly recommended; and that ye will improve this opportunity, which God hath given you for securing to yourselves, and transmitting to your posterity your religion and liberties, which will certainly be for your honour and happiness, and will render you equally acceptable to her Majesty and to all her subjects."

The Earl of Cromarty's Speech.] Lastly, George, earl of Cromarty, Lord Secretary, spoke to this purpose:

"My Lord Chancellor; Albeit this seat wherein it has pleased her Majesty to place me, does allow, or rather oblige me to say something on this occasion, yet my Lord High Commissioner, and my Lord Chancellor have said so fully, and so well, as I fear what I can say will prove a diminutive adjection: But I shall speak little, and, if I can remember, I shall not repeat. My lord, should all her servants be silent, the actions, the sayings, the whole tract of her Majesty's government, and the happy effects thereof do speak loudly, that if ever prince or sovereign have devoted themselves to God and their country, without flattery or hyperbole, we may truly say, that our most gracious queen hath: All may hear, and those who have the honour to attend her Majesty may see, that her time, her care, her pleasure, her leisure, her treasure, yea, her very health and life, are sacrificed every day, and almost every time of the day, to actual exercise of devotion to God, or administration of government to her people; and we may bless God, that by his blessing on her endeavours, all and every one of her subjects do participate of the fruits of the royal sacrifice: Nay, and all the best part of Europe beside, that is her Majesty's confederates; and her and their enemies do find with grief what we feel with satisfaction: And though her Majesty has many dominions under her royal care, and more confederates, yet she omits not any of our particular concerns, and we partake in our full capacity of those happy effects. We are, with many others, engaged in a great, but, to full conviction, necessary war, the effects whereof are dreadful and hurtful, not only in expence and soldiers, (which all must afford:) But, as to seeing our people slaughtered like beasts in our streets and houses, to see our towns in fire, our women ravished, our sacred things prophaned, and many other dismal effects of war and rapine, (which almost all others feel and see:) We (thanks to God, and under him to his vicegerent our queen) do only hear of these things: My Lord Chancellor, this we ought, and, I doubt not, we do remember and consider. My lord, this is not offered as an eulogy or panegyric on her Majesty; she is far above what I can say, but it is an antecedent to the following subsumption.—And as this of her care of us, and zeal for us, is evident, so it is no less true, that the queen sits higher than we do, or ought to do, on this throne, as she does also on the throne of her other dominions. And farther, we know, that she is one of the heads, and highly situate in all the great confederacy, whereof her Majesty is, if not the chief, yet a principal: and from this both reason and discretion oblige us to conclude, that she must see very much farther, and more clearly into the actions, designs, and practices of her and our enemies, in the concerns, and in what directs and moves our allies, than it is possible for us to do, who both stand lower, and are bounded in our narrower spheres: Therefore, as in all matters, so especially in points of fact, we are bound to rely on her information and her judgment more than our own, since what we can but conjecture, is obvious to her certain knowledge; and if we should fall (as I confidently hope we will not) into the indiscretion, to oppose our conjectures to her knowledge, that could not miss of dire effects, and readily most mischievous to ourselves.—Her Majesty's royal letter, my Lord Commissioner his grace, and my Lord Chancellor have plainly laid before us matters of great importance: Her Majesty is very express in what she purposes; her reason and antecedent is as plain and express as the conclusion. I hope the two motives I give for believing, and consequently for obeying her Majesty, are also

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plain and concluding.—My Lord Chancellor, the honour of being her Majesty's secretary obliges me to obviate and remove an aspersion on the queen's Majesty's candour and honour, if any such insinuation be made, which is, that some would persuade others to believe, that the queen has a secret will in the affair now before us, contrary to her express will revealed and declared by her in her royal letter. My lord, I am persuaded she does hate that position in theology, and I am certain she does so in her politics; and the reason of my certainty in this is, that her Majesty did command me, and I think her other servants, expressly to assure this house, That nothing in her service could please her better, than if they should believe and obey her in what she proposes in her letter; and nothing can displease her more than to do otherways.—My lords, both old custom and good manners oblige us to begin with her Majesty's letter, and in its method; if my zeal and duty on this subject have drawn me in to speak more than I intended, or perhaps needed, I beg the house's pardon: But since my hand is in, and that I neither use nor love to speak oft, I shall only add my earnest and humble wish for these two things; 1st. That the orders of the house may be strictly observed; for by that much time will be saved, and many inconveniencies prevented; and the not doing of this, will disgrace this great court. The 2nd is, That we may redargue one another with kindness and civility; let our force fall on the subject which we oppugn, or the measure which we reject, and by no means on one another's persons. Would to God we were always unanimous; but that seldom, if ever, was in so numerous a court or council: But when we differ; will we argue the better by our being angry? No, 'impedit ira animum.' Will we convert others so well, by making them angry, as by a meek calmness in arguing? Does spite add force to reason; or does it produce that consent which we endeavour to obtain? So for our own sakes, and for the honour of our reasonings, let us urge and reply with calmness. I have oft regretted to see good reasoning lost, or at least ineffectual in great measure, by the heats in arguing: and I will say it were a pity: for the members of great courts elsewhere may, in the opinion of many, speak better language than these of this do; yet they do not speak better sense. And besides these motives to calm reasoning, this ought to determine us all against it, to wit, that neither our heat nor our self-pleasing arguments, are, what will determine any debate. The law of order, the constitutions, statutes, and necessity, give the faculty of concluding to the whole of this house: and all we can say must be submitted to what this whole house will approve, or to what the major part will agree in: And therefore, much reasoning, and all heats, will, on many accounts, be profitably forborne. I conclude with this assertion, which I think evident without discourse, that as the union of Britain is apparently its greatest politic good; so, as certainly, and by the infallible rule of contraries, a division of Britain is its greatest evil: And then, it is a necessary corollary, whoever is not for the union of Britain, may be concluded an enemy to it *."

Proceedings respecting the Succession.] July 13. Pursuant to the scheme of a treaty before the succession was fixed, the duke of Hamilton presented a resolve, that this parliament would not proceed to name a successor to the crown, until the Scots had a previous treaty with England, in relation to commerce and other concerns. The courtiers, not expecting the cavaliers would have begun so early to oppose the succession, were not a little surprised and perplexed at this resolve, and all they could do for the present was to procure a vote, that it should lie on the table till the next meeting four days after. The duke of Hamilton having then moved the resuming of the consideration of his resolve, it occasioned a warm debate, in which Fletcher of Salton, in a particular manner represented the hardships and miseries which the Scots had suffered since the union of the two crowns under one sovereign, and the impossibility of bettering their condition, unless they took care to prevent any design that tended to continue the same. Upon this, the earl of Rothes presented another resolve, That this parliament would immediately proceed to make such limitations and conditions of government, as might be judged proper for rectifying the constitution, and to vindicate and secure the sovereignty and independency of the nation; and then the parliament would take into consideration the other resolve offered by the duke of Hamilton for a treaty, previous to the nomination of a successor to the crown. This occasioned a new debate, wherein the court party earnestly urged the settling the succession, before the house proceeded to any other business; and, on the other hand, the cavaliers made very sharp reflections on the proceedings of the parliament of England, with relation to the plot, which had great influence on many members wholly unacquainted with that affair. However, the court-party, thinking they were strong enough to give the earl of Rothes's motion the preference to the duke of Hamilton's resolve, insisted

* "So, notwithstanding a long and idle speech of the earl of Cromarty's, which was printed, running into a distinction among divines, between the revealed and secret will of God, shewing, that no such distinction could be applied to the queen; She had but one will, and that was revealed; yet it was still suspected, that at least her ministers had a secret will in the case. They went no further in this vote for a treaty with England; for they could not agree among themselves, who should be the Commissioners, and those who opposed the declaring the succession, were concerned for no more, when that question was once set aside: So it was postponed, as a matter about which they took no further care." Burnet.

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to have the question stated, Which of the two should come first under the consideration of the house? Upon which, great heats arose, and Sir James Falconer of Phesdo spoke to this purpose. That he was very glad to see such an emulation in the house, upon account of the nation's interest and security: that he thought both the resolves under their consideration so good and necessary, that it was pity they should clash with one another; he therefore moved, that it be resolved, that this parliament will not proceed to the nomination of a successor, until there was a previous treaty with England for regulating the commerce and other affairs with that nation: and, that this parliament will proceed to make such limitations and conditions of government, as may secure the religion, liberty, and independency of this nation, before they proceed to the nomination of a successor to the crown. This joint resolve being put to the vote, it was carried by a majority of fifty-five voices. Of these, about thirty were in immediate dependence on the court, and were determined according to directions given them. However, they went no farther in this vote for a treaty with England; for they could not agree among themselves who should be the commissioners, and those, who opposed the declaring the succession, were concerned for no more, when that affair was laid aside. It was therefore postponed, as a matter about which they took no farther care.

Two Speeches thereon.] In the course of these debates the two following Speeches were made in relation to the settlement of the succession:

"My Lord Chancellor; We have had a long vacancy; nine months have given us a new light, and have let us into the knowledge of men and things. The Act of Security was what we staid upon very long last sessions: I was for it as much as any man; but my mind, as well as judgment, is altered, and I am now well assured I was in the wrong. For if her Majesty could have passed it into a law, it would have done her nor us no manner of service, because it left the sessions loose during her Majesty's life time; which omission alone may undo her (whom God preserve) and us.

"We were not aware of the deep designs of some who pretended only the good of the kingdom, a specious pretext to keep this nation free, and as a by-weight to throw in to balance upon occasion for a help to sway with those of our neighbours, who may be so wickedly and traitorously inclined, as to wish and act for the pretended prince at St. Germain, I mean for France, aganst the rightful and lawful title of her Majesty, and the succession of her English crown, so well established by the laws of that kingdom. I hope, my lord, the wisdom of this house will take care to disappoint the men of such pernicious and dangerous designs. There have been, and are still Achitophels; but God hath turned their counsels into folly: A trick will serve but for one turn amongst men of common sense.

"We ought to be very thankful to God and the queen, that things have been set before our eyes of late in a clear light; and some amongst us ought to bless both that they for their contrivances were not brought within the verge of the law, and made an example and terror to others, that none might venture on the like wicked practices against our Sovereign, and the peace of her government. These mens actions are known, and all their words are carried by the birds of the air to her Majesty's ears.

"I beg leave, my lord, to presume that there are few in this house but are well acquainted with the history of Peter Warbeck, (alias Perkin) in our king James 4 time. He was bred and nursed up with a design to dethrone Henry 7, by Margaret, Dutchess of Burgundy and Flanders, as a fit tool to satisfy her revengeful temper; and though she knew him to be only the son of a poor man at Tournay, she gave him the name and title of Duke of York, and true lineal heir of her deceased brother Edward, late king of England. She equipt him, and gave him ships, men and money, and sent him into Ireland, where a rebellion was raised, as well as in England, by him and his adherents: He failed in the expedition. The French king Charles 8, found him a fit instrument to serve a turn for him also; wherefore he entertained him as the prince of England, and he, with the Dutchess of Flanders, equipt him out a second time: But finding difficulties, at last he came here to our king James 4. The story of this Knight-errant had justly given our king and Court grounds to believe him a notorious impostor. Upon this pretended prince's address to the king for some aid, his Majesty wisely called his council, and asked their advice what to do on the subject: Buchanan informs you, 'Cum sententiæ rogarentur, prudentiores et 'quibus major erat rerum usus, rem integram 'reponendam censebant.'

"Here, my lords, the old wise men of experience in council were of opinion, that it was not fit for his majesty to receive or entertain this pretended prince, who they wisely believed to be a fourb, and who had given great trouble to this island, and was like to give much more.

"But when the question came to the young nobility of the council, the same author says, they were the majority, and carried it in favour of Perkins: 'At major pars, vel ob pueritiam 'rerum, et animorum inconstantiam, &c. for-'tunam hominis commiserabantur:' The young counsellors, either for want of experience, or for want of steadiness of mind, were more easily caught. They were more in number, and had a compassion for the young stranger. They were told he was like the late king Edward, his pretended father, and the family of York, though they never had seen any of them.

"Here the cheat went on: he had the entertainment of a prince, he had a wife out of one of our noble families, he had an army raised in his favour, and led into England by our young king, and after much blood and treasure spent

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on this pretended prince, the cheat was discovered; he was sent away out of our country, and some time after had the reward of villainy.

"My lord, this act of inconsiderate hospitality to one who was but a cheat, gave just ground to the world abroad to call our judgment into question; and no body will read the history but will conclude, that our predecessors were extremely imposed on, and that the impostor might have caused the utter ruin of their liberties and country.

"My lord, the same game is playing now. Perhaps some have never read the history, and others have forgot it. No wonder it happened two hundred years ago; when no male issue was like to succeed king James 7, one was to be found 'viis et modis, per fas aut nefas:' one at last was said to be born at St. James's, June 1688. That child died soon after, a second was put in his place, and carried to and nursed up at Richmond; but God thought fit to kill that second child also.

"Now, my lord, this pretended prince of Wales is a third child, in whose veins there is not a drop of royal blood. Here is a new Perkin come into the world 200 years after the first, who was sent to ruin England and Ireland, only to satisfy the violent malice of a revengeful woman. This second pretended prince is nursed up by Rome, France, and armies of implacable revengeful priests, who give him the title of king. For what? To the end that he may prove a more fit instrument, upon any occasion, to root out and totally destroy us and our holy religion, which they call heresy.

"Some of us, my lords, are no wiser than our predecessors in this point: we give the priests and other agents of France and Rome leave to pervert our understanding; we take such impressions as remain: young men's minds are tender and soft, and retain the first impressions long. Some of us have been in France not many years ago, and have seen this pretended prince, and commend his person and parts, his features, &c. and say he is very like the royal family; though some of us never saw one of them, except our own queen.

"Thus young men are very apt to be led out of the way. I have known some by keeping bad company did catch the French disease; modesty and shame made them conceal it till it was too late, and then it cost them their life. It is the case at present with some of us here, who have got the French inclinations, more dangerous in this nation than the disease, and will not own it till it is too late, and then it may cost them their lives, their estates, with the ruin of their posterity. Whatever young men may do, my lords, for want of better information, yet it is strange that men of riper age, pretenders to religion, to the good and interest of our country, are said to be tainted with the same inclination to have France rule over us; of which men there is a mighty jealousy: I will not believe them guilty, and at the same time I cannot answer for them; but let their works testify what they aim at.

"We all talk loud of love for our country and religion, but I presume to say, that the love of money, and self-interest, hath appeared more our study than any thing else. What bad practices hath not her Majesty by her great care found out? The contrivers may cover their designs the best way they please; but, my lord, whoever waits or inclines for the bondage and cruel oppressions we in this nation are so lately delivered from, be who they will, are and may be found guilty of crimes of a dangerous consequence, and of a transcendant nature, no less than the subversion of the government of this kingdom, and the alteration of the Protestant religion; and this not upon a bare information only; her Majesty knows their converse, and their actions speak aloud to all about them.

"Such practices are an enemy to all goodness and good men; it is from such proceedings that our assembly is corrupted, and till this fountain of mischief is purged, we cannot expect to have any clear channels: all here know what I mean.

"These crimes are various in their natures, heinous in their quality, and universal in their extent. If we examine them, my lord, theologically, as they stand in opposition to the truth of God, they will be found to be against the rules of faith, against the power of godliness, and against the means of salvation.—If you examine them morally, as they stand in opposition to the light of nature, to right reason and the principles of human society, you will then perceive pride without any moderation; such pride as that which exalts itself, &c. Malice without any provocation, malice against virtue, against innocency, against piety; injustice without any means of restitution, even such injustice as does rob the innocent of their just right and unspotted reputation.

"If these men, my lord, who set up for the pretended prince of Wales, be examined by legal rules in a civil way, as they stand in opposition to the public good, and to the laws of the land already in force; these men, I say, may be found to be traitors against her Majesty's crown, and incendiaries against the peace and safety of this kigdom; they may be found the highest, the boldest, and the most impudent offenders that ever were; betrayers of the queen and people, as well as of this country and our religion. If any one here is sensibly pinched, let him consider whether or no he is guilty; if he is, let him sin no more, lest a worse thing befal him.

"My lord, I see many here may remember, if they please, the frequent tragedies that were acted among us some twenty years ago. I am sure there are several of us, whose nearest relations were sacrificed to the despotic and arbitrary will, and to the revengeful resentments of popery and its principles; it was then that the orders to persecute, execute, to hang, draw, and quarter, and to shed the best blood in the nation, without, nay, against any law, were by a prerogative royal without reserve.

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"I see some here were banished, and forced to wander in exile, and beg shelter from foreign princes, whose families were dispersed and ruined, whose estates were torn in pieces and given to strangers, men of another communion. Can these melancholy reflections be forgot so soon by ourselves, who were the martyrs? A spirit of delusion seems to cover the eyes of our understandings, till we fall a second sacrifice to the same bloody actors. I speak for nor against no party of men: but, my lord, it is high time for us to consider in cool blood, how to barricado ourselves against the assaults of the common enemy, France and popery; in order to which I have two things to move, which are, that we may all here obey our Saviour's new commandment, Love one another; and often repeat that excellent prayer taught us by that same blessed Saviour; by doing whereof we shall be brought to forgive one another, as we desire God to forgive us. This done, we shall be in better circumstances to lay aside our pride, our passion, covetousness, our vain-glory, and unrelenting revenge, which alone belong to God Almighty to repay; and shall be in a condition to serve our sovereign, in obedience to her just commands, our country and people, in their necessary requests, and settle a Protestant successor, while we have the occasion and power in our own hands: accidents may happen, and put it out of our way, ever to do it to our advantage. Wherefore I move, it may be considered and finished, before this house proceed to any other business."

Another Speech.

"My Lord Chancellor; I second the noble member that spoke last, in his motion for settling the succession, before the house proceeds to any other business: But I do not pretend to give any direction how the matter shall be done; let the wisdom of this honourable house consider with mature deliberation, what can preserve us from Rome and the French King, that her Majesty's royal person and crown may be secure from all invasions abroad, and disturbances at home.

"My Lord Chancellor, her Majesty deserves all the returns of loyalty and duty that are in our power to make; I believe she hath given my Lord Commissioner such instructions as may prove to our advantage, if they are duly put in execution. Complaints have been made by some, that they are not full for settling a successor: I am morally sure, my lord, the complaint is ill-grounded, which I hope his grace will soon declare to this house, and satisfy all her good and loyal subjects, how much she hath the peace and advantage of this her ancient kingdom in her thoughts.

"As hath been well observed just now, last sessions many of us were misled; I own my mistake of men and things; we were going very fast into a labyrinth; our leaders misinformed us; the nation now may see its interest; theorical schemes and projects, which can never be brought to practice, ought to be laid aside; they create much debate, spend much time, and can never be of use. My Lord, with submission, this assembly ought to lay aside all frivolous debates, that our judgments may not be called in question elsewhere.

"I am for following the advice just now mentioned: Let us forgive, and love one another; let us join hearts and hands to keep out the known enemy of our religion. If that deceiver or breaker of sacred vows and treaties, made and sworn upon the holy gospel at the altar, in the most solemn and most religious manner, shall by his power and our mistaken management, put upon us that thing in the air, called the prince of Wales, of no birth, of no blood, sprung from whom is unknown to himself, as well as to us; we must be ruined, my lord, every man here who enjoys his estate, may easily know what he has to trust to; we all know who must come with him, the same men and principles who destroyed us twenty years ago. I humbly move, with submission, that we may pass by all the mutual vexatious animosities which were amongst us but lately; all parties have been to blame; God will pardon the penitent: The Queen oversees, and graciously forgives; let us mutually do the same, and settle our succession, and secure and help ourselves, and God will help us; it will prove our own and the people's safety." "Salus Populi suprema Lex esto."

"Let us follow the example of our wise neighbours, and make such laws as may tie up the hands and terrify the hearts of our own depraved subjects, who dare offer to act or speak in favour of any, in prejudice to her Majesty's lawful and rightful title to her crown and dignity.—I am confident, my lord, no man here dares own his inclinations to be for the French king, or that pretended prince, whatever prospect he may have of titles, honours, or subordinate power from him, who hath no bowels of compassion left, who consumes his own vitals, by persecuting and tormenting his own best subjects, and spares neither sex nor age in his neighbouring country, even of his own mistaken religion, if they but refuse to be his slaves; witness his new conquests in Alsace and Flanders. What then are we to expect, who by that tyrant are accounted heretics?"

"Whoever are so wicked amongst us, as to venture either to counsel, conduct, or invite, whenever he comes, (which God prevent) may expect the same fate. For my own part, my lord, I have no personal prejudice against him, nor the pretended prince of Wales, but I here solemnly declare, that I will oppose him, or either of them, with all their adherents, whilst there is a drop of blood in my veins; and I am morally sure of 100,000 of the best men in Britain to accompany me in the opposition; and I am sure, my lord, of this, that the nation in general will go along with me also; God be praised, we are Protestants, and of the reformed religion, for which I hope we shall ever be ready and willing, upon any such occasion, to sacrifice our lives and our fortunes, to pre-

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vent all these impendent evils. My lord, let us settle a successor who is a known Protestant, and of our own royal and antient race of kings.

"For an argument of this, an anonymous author, in his Remarks on the late Plot, gives some reasons for it, which for your information I here presume to repeat: After he excuses two noble dukes, he says, 'Tis hoped this is sufficient to make it plain, that to insist on an Union and communication of trade at this time, would retard the succession, which may be dangerous to ourselves, and to the whole Protestant interest all over Europe.

"The danger to ourselves, is evident from the conspiracy that Fraser and his accomplices have been carrying on in the Highlands, and other parts of this kingdom, the general discontents which are in our nation, &c. and gives his reasons, page 48. He continues to tell you, That the Jacobites here, and their friends beyond the Sea, make a great improvement of the delay of settling the succession; they flatter themselves, and impose upon the world, that it proceeds from the inclinations of our people to the St. Germain family.

"Then he goes on to tell you, my lord, of our divisions, which, says he, encourage the French to solicit a rebellion, and to attempt an invasion, either of which effected, transforms our country into a field of blood. And supposing (which God forbid) her Majesty should die whilst the succession is unsettled, and our country lying under these intestine divisions, the Hanover and St. Germain parties will certainly engage us in a civil war: England and Ireland will assist the first, and France the other. This will make our nation a theatre of woe and calamity, and whoever hath the advantage in such a case, we must be slaves for ever.—Our author, my Lord, concludes the paragraph, and tells us in such circumstances, that there will be no room for thoughts of insisting on limitations, and humbly conceives that what is said is sufficient to shew the necessity of settling the succession upon the foot of our old constitution; that it will be the only way to secure us against those dangers we are threatened with, from the madness and folly of both parties, viz. Whig and Tory.

"My Lord Chancellor, this anonymous author hath said very much in favour of the rights and privileges of this kingdom in these remarks and other books which I have seen; and in particular, hath been at some pains to excuse some great men, whose works and actions I would have rather to speak and plead for them, that we may see and know in good earnest in whose company we are, and with whom we have to do. Yet I must say, the author seems in earnest for settling the succession.

"It is certain, my lord, whoever is for pressing an union or a communication of trade at this time, is diametrically against the settling the succession; and, if we do not perform this necessary point this session, what constructions will men of unbiassed principles, men of the same religion with ourselves all the world over, put upon our management?—Will not the majority of this assembly be justly suspected, if the succession be not settled this time? On this point depends the security of all that is dear to us both spiritual and temporal, at home and abroad; and whoever are against it, without all manner of doubt, are enemies at bottom to our queen, to our religion and government, and to the people of this kingdom, and their posterity. The person, my lord, who I presume you will think fit to name for a successor, is her royal highness the electoress dowager of Brunswick and Lunenburgh, the princess Sophia; she is the next Protestant of our own royal family, whose mother was a native of our own country; born at Dunfermling. Her highness's blood is truly royal, her inclinations and heart, as I am credibly informed, are entirely British; and, my lord, we can go no where else for a successor, but to her and the heirs of her body. When this point is settled on the best conditions proper for us to ask, and in her Majesty's power to grant, none in this assembly will have occasion so very often to make mention of her Majesty's death, as they did last year, which indeed carries something rude in expressing it. We all know, my lord, she is mortal; may we act and speak as if we thought ourselves so, and may we never have occasion to make more mention of her death; may she outlive all of us; she is the support and glory of us, of our religion, and of the quiet and peaceable government we all enjoy; and by her shining character, illustrates and adorns all her good subjects.—Wherefore, my lord, let it never be said, that we of this parliament, either by neglect or by wrong principles, or by a mistake in our judgments, grasping at what can never be obtained, are either the immediate or mediate cause of eclipsing so bright a lustre, as shines through all the distinct parts of her wise management at home as well as abroad. From hence we hear the joyful news of victories, and a happy progress by the wise and adorable providence, in the late great success vouchsafed to her majesty's arms and those of her allies; whereby God hath thus far disappointed the hopes, and confounded the devices and ambitious designs of the common enemy.

"I presume to say, with submission, that our divisions amongst ourselves, these last two years past, have given her Majesty more real vexation and trouble than all the great affairs of Europe, of which she hath a very great share; this alone is a reproach to our nation in general: whereas indeed the true cause is the pride, ambition, and covetous humour of some few particular men of both parties, who all pretended the service of the queen and the public good; whereas in good earnest, all that these pretended patriots aim at is to be chief, and the first in posts and offices of profit and trust, by which they may pretend a privilege to spend and squander away the public revenue, oppress the people, to support their own pride, vanity

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and luxury. 'Hinc illæ Lacrymæ.' From such managers and self-interested, passionate, proud men, are all our misery, and all the reproaches cast upon the nation: covetousness and the love of money blind these men's understandings. Let us not follow their maxims, lest we prove troublesome to our sovereign, and useless to the public. I know very well, my lord, some here who are really for the succession, but are not for having it settled at this time for several pretended reasons; but a great one is, they would not have his grace, my lord Commissioner, have the honour of passing it, whilst he sits on the throne.—I confess, for my own part, I have no concern whoever does a good thing, provided I have a share of it; and I hope, if any man is against it on that account, he will repent and consider the public advantage: from which, and from all that has been said, I am, my lord, for settling of the succession now, before the house proceeds to any other business."

The cavaliers were extremely elated by this victory; and the duke of Athol, lord privy-seal, and one of their leaders, moved, "That her majesty having been pleased to signify by her commissioner, that the examination of the plot should be laid before the parliament, his grace would be pleased to write to her majesty, to send down the persons, who were witnesses, and all the papers relating to that plot, as soon as possible, that the affair might be thoroughly examined: and those, who were unjustly accused, might be vindicated, and the guilty punished." Whereupon the lord chancellor declared, by order of the lord commissioner, that his grace had written, and would write again to the queen, for all the evidences relating to the plot.

July 19. The duke of Hamilton moved, "That the parliament would proceed to make such limitations and conditions of government, for the rectifying of the constitution, as might secure the religion, liberty, and independency of this nation: and that they would name commissioners to treat with England, for regulating the commerce, and other concerns with that nation, previous to all other business, except an act for two months cess, first of all to be granted for the present subsistence of her Majesty's forces." Upon this, the earl of Marchmont made a long speech, importing, "That, since the house had resolved not to fall immediately upon settling the succession, it was reasonable, that an act should be made to exclude all popish successors." To which the duke of Hamilton answered, "That he should be one of the first who should draw his sword against a popish successor, though he did not think this a proper time, either to settle the succession, or to consider of the earl of Marchmont's proposal."

July 21. After some debate, the consideration of the duke of Hamilton's motion was adjourned for two days, when it was moved, That the act presented by the lord-justice clerk, and declared by him to be for fourteen months supply, payable in two years, might likewise be considered. After a debate, it was put to the vote, whether to give a cess for two, or for fourteen months? and, it was carried by 16 voices, that it should be for two months only.

Proceedings on the Supply, and the Act of Security.] July 25. The act of supply was taken again into consideration; but there was tacked to it a great part of the bill for the security of the nation, which (as hath been related) passed the former session of parliament, but was refused by the throne. After some debate, the following resolve was offered by the lord Ross, "That the parliament will proceed to grant two months supply for subsisting her majesty's forces; and, as soon as the act of security, now read, has got the royal assent, will give four months more." And then a second resolve was presented by the earl of Roxburgh, "That there be a first reading marked on the act of security; and that both this act, and that for the supply, lie, without being further proceeded on, until her majesty's commissioner receive instructions as to the act of security, it being then free for the parliament to proceed to the acts jointly or separately, as they should think fit." After reasoning on both these resolves, the question was stated, whether to approve the lord Ross's or the earl of Roxburgh's? It was carried for the lord Ross's; and the act of security being read, a first reading was ordered to be marked thereon. These things were carried with great heat and vehemence; for (as was before observed) a national humour of being independent on England, fermented so strongly among all sorts of people without doors, that those who went not into every hot motion that was made, were considered as the betrayers of their country: and they were so exposed to a popular fury, that some of those who studied to stop the torrent, were thought to be in danger of their lives. The presbyterians were so overawed with these proceedings, that though they wished well to the settling the succession, they durst not openly declare it. The dukes of Hamilton and Athol led all these violent motions, and the whole nation was strangely inflamed.

The ministers were in great perplexity how to act, with regard to the supply-bill, and the tack that was joined to it. If it was denied, the army could be no longer kept up; they had run so far in arrear, that, considering the poverty of the country, that could not be carried on much longer. Some suggested, that it should be proposed to the English ministry to advance the subsistence-money, till better measures could be taken; but none of the Scotish ministers would agree to that. An army is reckoned to belong to those who pay it; and therefore an army paid from England, would be called an English army. Nor was it possible to manage such a thing secretly. It was well known there was no money in the Scotch treasury to pay them: so that, if money were

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once brought into the treasury, how secretly soever, all men must conclude, that it came from England. And mens' minds were then so full of the conceit of independency, that, if a suspicion arose of any such practice probably it would have occasioned tumults. Even the army itself was so inflamed with this temper, that it was believed, that neither officers nor soldiers would have taken their pay, if they had believed it came from England. The affair was therefore reduced to this dilemna, that either the army must be disbanded, or the bill must pass. It is true, the army was a very small one, not above three thousand; but it was so ordered, that it was double or treble officered: so that it could have been easily encreased to a much greater number, if there had been occasion for it. The officers had served long, and were men of a good character. Since therefore there were alarms of an invasion, which both sides looked for, and the intelligence which the court had from France, assured them it was intended; the ministers thought the inconveniencies arising from the tack might be remedied afterwards; but that the breaking of the army was such a pernicious thing, and might end so fatally, that it was not to be ventured on: therefore, by common consent, a letter was wrote to the queen, which was signed by all the ministers in Scotland, in which they laid the whole matter before her, and every thing stated and balanced; concluding with their humble advice to pass the bill. This was very heavy on the lord Godolphin, on whose counsel the queen chiefly relied. He saw, that the ill consequences of breaking the army, and laying that kingdom open to an invasion, would fall on him, if he should, in contradiction to the advice given by the ministry of Scotland, have advised the queen to reject the bill. This was under consideration in the end of July, when affairs abroad were in a great uncertainty; for though the victory at Schellenburg was a good step, yet the great decision was not then come. He thought therefore, considering the state of affairs, and the accidents which might happen, that it was the safest thing for the queen to comply with the advice of those to whom she trusted the affairs of that kingdom.

The Lord High Commissioner's Speech on passing the Act of Security—and to quicken the Supply.] August 5. The queen sent orders to pass the bill, which being done, the Commissioner made the following speech on the occasion:

"My Lords and Gentlemen; At your sitting down, her majesty, in her gracious letter, recommended to you two things, which she thought most necessary for your own quiet and security, as well as for that of her government; the settling of the succession in the protestant line, and the providing for the subsistence of the forces, the funds last given for that end being then exhausted. The first of these you have not thought fit for your interest to do at this time. I heartily wish you may meet with an opportunity for it more for your advantage at another. The other all of you seemed most ready and willing to go into, as witness the several motions and resolves made thereanent; but, withal, shewed strong inclinations for an act of security, as absolutely necessary. I told you then, as I had done at first, that I had been fully impowered and instructed, not only as to that, but many other things for your good; but upon the alteration of circumstances, had not now the liberty to make use of those powers even as to that, till I had acquainted her majesty, and knew her mind, which I would do, and use my utmost interest to procure it favourable; which was the true reason of your long adjournment, and not what was insinuated by some, who ought to have known me better, the character I have in the world being, as I hope, above so mean a reflection.

"And now, my lords and gentlemen, I can tell you, that, from her majesty's innate goodness and gracious disposition towards you, it hath been more easy for me, and some other of her servants, to prevail with her, than perhaps was by others expected; so that you have an act of security sufficient for the ends proposed. And it is hoped, at the same time, you will perfect that of supply, which you yourselves seem convinced to be absolutely necessary at this time, and without which neither the forces can be kept on foot, nor any frigate maintained for guarding our coasts and securing our trade: both which now lying before you, I hope you will go presently about, that, when finished, they may have the royal assent, which I am ready to give. And therefore you may have time to proceed to other business relating to trade, or your other concerns, wherein I shall be willing to comply with your desires, so they be within the bounds of my instructions."*

* "Thus this act of security was passed after the battle of Blenheim was over, but several days before the news of it reached England. When the act passed, copies of it were sent to England, where it was soon printed by those who were uneasy at the lord Godolphin's holding the white staff, and resolved to make use of this against him: for the whole blame of passing it was cast upon him. It was not possible to prove, that he had advised the queen to it, and therefore some took it by another handle, and resolved to urge it against him, that he had not persuaded the queen to reject it, though that seemed a great stretch; for, he being a stranger to Scotland, it might have been liable to more objection, if he had presumed to advise the queen to refuse a bill passed in the parliament of that kingdom, which all the ministry there advised her to pass. Severe censures were passed upon this act. It was said, that the two kingdoms were now divided by law, and that the Scots were putting themselves in a posture to defend it: and all saw by whose advices this was done. One thing, which contributed to keep up an ill humour in the parliament of Scotland, was more justly imputed to

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The Lord High Commissioner's Speech at the Adjournment.] Aug. 27. The parliament having granted a six months cess for the pay of the army, they were entering upon debates about the plot and the proceedings of the English house of lords in that affair, as an undue intermeddling with their concerns, and an incroachment upon the sovereignty and independency of their nation, when the High Commissioner came to the House, and made the following Speech:

"My lords and gentlemen; You have now sat long, and, I think, you cannot complain that you have been cut short by frequent adjournments or short sederunts. In this time more might have been done; however, some good laws are passed, and one in particular, which gives sufficient evidence of the disposition her Majesty was in to have gratified you in whatever was reasonable. I advertised you lately, that you had not much longer to sit: and though I cannot but say the time you have had since has been very usefully employed, yet, if there had been more dispatch made, some of those good laws which are now before you might have passed; but now I must tell you, that I am not allowed to give you any more time, her Majesty thinking a short recess necessary at present, so it will not be long till you may have another opportunity of doing what still remains fit to be done; for no disappointment her Majesty hath met with can alter, in the least, her favourable disposition towards this her ancient kingdom *."

A. D. 1705.

The Scotch parliament met again on the 28th of June, 1705, when his grace John duke of Argyle, her Majesty's High Commissioner, went to the parliament house, where his grace's commission was read, and recorded; after which a commission to James earl of Seafield to be Chancellor, commissions to William marquis of Annandale, and Hugh earl of Loudon, to be Secretaries of State, David earl of Glasgow, to be Lord Treasurer Deputy, sir James Murray of Philiphaugh, to be Clerk Register, and Adam

him. The queen had promised to send down to them all the examinations relating to the plot. If these had been sent down, probably in the first heat the matter might have been carried far against the duke of Queensberry. But he, who stayed all the while in London, got it to be represented to the queen, that the sending down these examinations, with the persons concerned in them, would run the session into so much heat, and into such a length, that it would divert them quite from considering the succession, and it might produce a tragical scene. Upon these suggestions, the queen altered her resolution of sending them down; and though repeated applications were made to her, both by the parliament and her ministers, to have them sent, yet no answer was made to these, nor was so much as an excuse made for not sending them. The duke of Queensberry, having gained this point, got all his friends to join with the party that opposed the new ministry. This both defeated all their projects, and softened the spirits of those who were so set against him, that in their first fury no stop could have been put to their proceedings. But now the party that had designed to ruin him, was so much wrought on by the assistance that his friends gave them in this session, that they resolved to preserve him." Tindal.

* "Before they separated, they drew up an Address to the queen, desiring, that the Evidence and Papers relating to the plot might be laid before them against the next session.—This was the state of that nation, which was aggravated very odiously all over England. It was confidently, though, as was afterwards known, very falsely reported, that great quantities of arms were brought over, and dispersed through the whole kingdom. And, it being well known how poor the nation was at that time, it was said those arms were paid for by other hands, in imitation of what it was believed cardinal Richelieu did in the year 1638. Another thing was given out very maliciously by the lord Godolphin's enemies, that he had given directions under-hand to hinder the declaring the succession; and that the secret of this was trusted to Mr. Johnston, who, they said, talked openly one way, and acted secretly another, though there never appeared any colour of truth in those reports. Great use was to be made of the affairs of Scotland, because there was no ground of complaint of any thing in the administration at home. All the duke of Marlborough's enemies saw, that his chief strength lay in the credit which the lord Godolphin was in at home, while he was so successful abroad: so that it being impossible to attack him in such a course of glory, they laid their aims against the Lord-Treasurer. The Tories resolved to attack him, and that disposed the Whigs to preserve him; and this was so managed by them, that it gave a great turn to all the councils at home.—Immediately after the adjournment of the parliament, the courtiers repaired to London, where the marquis of Tweedale was made chancellor of Scotland; the earls of Seafield and Roxburgh, secretaries of state; the earl of Rothes, lord-privy-seal; the earl of Cromarty, justice-general; Mr. Bailie of Jervis-wood, treasurer-deputy; and the earl of Selkirk, lord Belhaven, and sir John Hume, lords of the treasury: Sir William Hamilton was also made justice-clerk; but he lived not to enjoy that office many months, and was succeeded by Adam Cockburn of Ormistown. A new commission was, at the same time, sent down to Edinburgh, by which most of the cavaliers, and all the duke of Queensberry's friends, were laid aside, and it was made up intirely of Scots revolutioners. And thus the administration of affairs in Scotland was lodged in the hands of a body of men, who concurred with the measures at that time pursued by the court of England." Tindal.

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Ormistone, to be Lord Justice Clerk, were read and recorded as usual.

The Queen's Letter.] Then they adjourned to the 3rd of July, when they met again, and her majesty's Letter to them was read as followeth: and his grace the Lord Commissioner and the Lord Chancellor made the following Speeches:

"My Lords and Gentlemen; It hath been our great care and concern ever since our accession to the crown, to preserve the peace, and promote the true interest and advantage of that our antient kingdom; and above all, to have your present establishment so secured, that both you, and after ages may reap the benefit thereof.—You are now again met in parliament, and no doubt, with a full view of all your present circumstances, which we heartily wish may be seconded with such endeavours on your part, as may best accomplish what we so really design.—In your last meeting we recommended to you with the greatest earnestness, the settling of the succession of that our ancient kingdom in the Protestant line, and several things having since happened, which shew the great inconvenience of this matter's continuing in suspence, we cannot but at present most seriously renew the recommendation of this settlement, as being convinced of the growing necessity thereof, both for the preservation of the Protestant religion, and the peace and safety of all our dominions, and for defeating the designs and attempts of all our enemies. And to prevent any objections to the said settlement, that can be suggested from the views or fears of future inconveniences that may happen to that our kingdom from thence, we shall be ready to give the royal assent to such proceedings and restrictions, as shall be found necessary and reasonable in such a case; and therefore we must still leave it upon you as most necessary for all the ends already mentioned, that you go to the settlement of the succession before all other business.—We are fully satisfied, and doubt not but you are, that great benefits will arise to all our subjects by an Union of Scotland and England, and that nothing will contribute more to the composing of differences, and extinguish the heats that are unhappily raised and fomented by the enemies of both nations, than the promoting of every thing that tends to the procuring the same. Therefore we earnestly recommend to you to pass an act for a commission to set a treaty on foot between the kingdoms, as our parliament of England has done, for effectuating what is so desirable, and for such other matters and things as may be judged proper for our honour, and the good and advantage of both kingdoms for ever; in which we shall most heartily give our best assistance.—The supplies granted by the parliament for maintaining the forces, with the forts, garrisons and frigates, are now at an end, and the same being still necessary to be maintained; as likewise that the magazines of arms and ammunition be duly furnished for the peace and security of the kingdom, especially now in time of war, we doubt not but you will provide the supplies needful, in such manner as may be easy and effectual.—We have named the duke of Argyle to be our commissioner, to represent our person in this session of parliament, as one, of whose capacity and zeal for our service, and the kingdom's good and advantage, we are sufficiently assured, and no less hopeful that he will be to you acceptable: We have fully empowered him to declare our firm resolution to maintain the government both in church and state, as by law established, and likewise to consent to such further laws as shall be thought needful for that end.—We have also empowered him to give the royal assent to such good laws, as shall be concluded for the advancement of piety, and discouragement of immorality, for the better encouraging and improving of trade and manufacture, the further securing of private rights and conveyances, and for promoting the more easy and speedy administration of justice; and generally for what may be found for the good and advantage of the kingdom. In all such, and whatever else may contribute for the happiness and satisfaction of our people, you shall have our ready and chearful concurrence: and so we bid you heartily farewell.—Given at our court at Windsor Castle, the 18th of June, 1705; and of our reign the 4th year."

The Lord High Commissioner's Speech.] His grace, the Lord Commissioner, made afterwards the following Speech:

"My Lords and Gentlemen; Her majesty has in her most gracious letter expressed so much tenderness and affection towards this nation, in assuring you, that she will maintain the government, as established by law, both in church and state; and acquainting you that she has been pleased to give me such power, to pass such acts as may be for the good of the nation, that, were it not purely to comply with custom, I might be silent. Her majesty has under her consideration the present circumstances of this kingdom; and out of her extreme concern for its welfare, has been graciously pleased to recommend to you two expedients, to prevent the ruin, which does but too plainly threaten us: in the first place, your settling the succession in the Protestant line, as what is absolutely and immediately necessary to secure our peace, to cool those heats which have, with great industry and too much success, been fomented among us, and effectually disappoint the designs of all our enemies. In the second, a treaty with England, which you yourselves have shewn so great an inclination for, that it is not to be supposed it can meet with any opposition.—The small part of the funds which were appropriated, in your last meeting, for the army, are now at an end, and I believe every body is satisfied of how great a use our frigates have been to our trade; and it is fit to acquaint you, our forts are ruinous, and our magazines empty. Therefore I do not doubt but your wisdom will direct you to provide suitable supplies.—My Lords and gentlemen, I am most

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sensible of the difficulties that attend this post, and the loss I am at by my want of experience in affairs; but I shall endeavour to make it up by my zeal and firmness in serving her majesty, and the great regard I shall have to whatsoever may be for the good of my country."

The Lord Chancellor's Speech.] Then the Lord Chancellor spoke to the assembly in the following words:

"My Lords and Gentlemen; Her Majesty in her most gracious letter, and my lord commissioner his grace, in his speech, do propose those things to your consideration, which are of the greatest importance for the security of your religion and liberties; and her Majesty is most willing to do all that is in her power, to promote the happiness and prosperity of all her subjects.—For these ends her Majesty doth, with great earnestness, continue to recommend to you the settlement of the succession to the crown in the Protestant line, as the surest measure for preserving all that is valuable to you, with regard either to your sacred or civil concerns: so long as this is delayed, the enemies of our present establishment will continue their bad designs, and be ready to take the first opportunity to disturb the public peace; and when can you enter upon the deliberation of this matter, with greater advantage than now in her Majesty's own time; and when you have assurances from her of all encouragement, and that she is ready to grant such limitations and conditions of government, with regard to the successor, as can be reasonably proposed, and will give her royal concurrence in every thing that can make this settlement advantageous to this nation.—Her Majesty doth also in her royal letter, with great concern, signify her design to prevent all differences that may happen between this kingdom and that of England; and proposes the only expedient in this matter, the setting on foot a Treaty of Union, and of such other matters and concerns as may be for her Majesty's honour, and the good and advantage of both kingdoms. It is unquestionably the interest of both nations, that they be more closely united; and that there be an entire communication of advantages and privileges, and that they both had the same interest, which would make the island secure at home and formidable abroad; and you are assured of her Majesty's royal concurrence and assistance, to make this treaty effectual, to the mutual advantage of both kingdoms.—You will certainly think it reasonable to grant the needful supplies for maintaining the forces and frigates, and for other uses mentioned in her Majesty's letter; these being so necessary now in time of war, for the support of her Majesty's government, and for the defence of this nation, against the attempts and designs of our enemies.—My lords and gentlemen, my lord commissioner being fully instructed by her Majesty, in every thing that concerns the good of this nation, you have the clearest and greatest evidence of her Majesty's most tender care for the happiness of her people. I am therefore hopeful you will improve this most desirable opportunity, for promoting of piety, for encouraging our trade, for preserving of your peace, and for doing all that may be for the mutual satisfaction of her Majesty and her subjects."

Proceedings respecting Trade, the State of the Coin, Paper Credit, &c.] July 6. The marquis of Annandale presented a proposal, "That the parliament would go upon the consideration of such limitations and conditions of government, as should be judged proper for the next successor in the Protestant line; and that, at the same time, a committee be appointed to consider the condition of the Coin of the nation, and the state of its commerce or trade, as to export and import, and to prepare and bring in the most proper remedies and regulations for that end." Hereupon the earl Marischal presented a resolve, "That the house, previous to all other affairs, would make such regulations of the Trade and Coin of this kingdom, as might be most for the advantage of the nation." Another resolve was also presented by the earl of Mar, "That the house would, preferably to all other business, take into their consideration the nation's circumstances, as to England, and how to enter into a treaty with them." This last being seconded by few, his lordship thought fit to withdraw it till another time: but the house fell into a debate of six hours upon the two first motions, and at last came to the question, Whether to proceed first to the consideration of Coin and Trade, or to that of Limitations; and the first was carried. Then a second question was put, Whether the Coin and Trade should be taken into consideration by way of resolve, which excluded all other business till that should be determined, or by way of proposal, which admitted of other business: and this was carried likewise by a great majority. It was the opinion of many, that the cavaliers made a wrong step in postponing the more material affairs, and trifling away the beginning of the session in matters of no importance; for, if they had immediately called for the queen's Letter, in order to return an answer to it, the treaty with England would naturally have fallen under consideration, and the duke of Queensberry's friends not being yet gone off from them, they might have either rejected it, or at least clogged it as they pleased, and chosen such members as they thought fit to be commissioners.

Whatever ground there may have been for this conjecture, it is certain, that the three next and many Sederunts or Sittings were spent in the consideration of Trade: in relation to which several overtures or proposals were laid before the house, some of which passed into laws, and the others were rejected. Amongst the rest, there were two proposals made for supplying the nation with money by a Paper-Credit. The first was offered by Dr. Hugh Chamberlaine, whose project by a Land-bank had, some years before, miscarried in England, and reduced him so low, that he was obliged

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to fly from his creditors into Scotland. The other was proposed by John Law, the son of a goldsmith in Edinburgh, a man of subtle parts, who, having squandered away his small fortune, was forced to live by gaming, but who, being an agreeable debauchee, found the way to ingratiate himself with the duke of Argyle, and the leaders of the flying squadron. Upon the confidence of their support, he presented a very plausible scheme, which was readily espoused by all the courtiers, and many of the flying squadron, because it was so framed, that, in process of time, it would have brought all the estates of the kingdom to depend upon the government. But the house rejected the proposal, and came to a Resolution, "That the establishing any kind of Paper Credit, so as to make bills pass for current coin, was an improper expedient." A council was likewise appointed, with power to put the laws relating thereto into execution; and it was recommended to them to bring the export and import of the nation to a balance, and lay the same before the house next session.

Proceedings respecting the Succession.] Before this act was brought to perfection, the cavaliers made all possible efforts to prevent the settling of the Succession, for which purpose the duke of Hamilton, on the 17th of July, presented the following resolve, "That this parliament will not proceed to the nomination of a Successor, till they have had a previous treaty with England in relation to commerce, and other concerns with that nation." And further "That this parliament will proceed to make such Limitations and conditions of government for the rectification of the constitution, as may secure the liberty, religion, and independency of this kingdom, before they proceed to the nomination of a successor." The court, and most of the flying squadron, united against this resolve; but the cavaliers insisted vigorously upon it, and, by the assistance of some of the duke of Queensberry's friends, carried it by a great majority.

Lord Belhaven's Speech thereon.] Upon this occasion Lord Belhaven made the following Speech:

"My Lord Chancellor; By what experience I have had in this world, I always found, that when divisions are once come to that consistency, as to form themselves in factions upon different measures and opposite designs, that then reason and reasoning make but a very small impression upon either of the parties. Therefore I shall not enter into the merits of this resolve, nor of its expediency or unexpediency at this time, that I may not give the least rise to debate, or occasion of misunderstanding amongst ourselves. What I shall say on this head, is to advance this position, viz. That there is more danger to our nation, and national concerns by divisions and factions, than by any mistakes in fit and adequate measures, if they be unanimously gone upon.—A wrong measure, especially, in resolutions, may be rectified and redressed, when we come to a fuller view of the affair. And, though some times they prove unsuccessful, yet unanimity endures a shock with firmness; but divisions and factions increase and multiply, and that from very small beginnings, so as to render all persuasions abortive; and that more especially amongst men of honour, who, as they are generally more grateful, constant, and firm to their words and parties, so upon disappointments they are more prone to resentment and revenge, the most dangerous of all passions, and the most fatal to the very being of nations.—What I plead for, my lord, at this time, is unity. Would you have limitations? Go upon them unanimously. Would you have a treaty? Do the like. Would you settle the succession upon limitations without a treaty? Would you settle the succession on treaty without limitations? Would you have neither done at this time? In short, whatever you would have done, let it be done *nem. con.*, and it will not want its own weight; for I am persuaded, that, whatever resolution this honourable house shall come to, a wrong measure is preferable to a good one, if there be unanimity in the one, and faction at the bottom of the other.—My lords, I could bring in instances from the histories of Europe, to confirm what I have said, and from none more than that of our neighbours, the states of Holland, whose unity has raised them to the grandeur and riches they are possessed of at this day. They wanted not wrong measures and unsuccessful attempts; but their unanimous firmness in the vindication of their liberty hath made good the verity of their motto, 'Concordia res parvæ crescunt.'—But, waving what is foreign, I shall confine myself to our own histories, and by four examples I shall make it evidently appear, that our predecessors, when in good understanding amongst themselves, were always in a condition to defend their rights and liberties against the English, and that they never did prevail over us, save when we were divided and broke by factions.—The first instance is of that famous controversy about the right of succession of Alexander the third. The story is so well known, that I shall not give this honourable house the trouble of hearing it repeated, but shall only say, we divided upon it. What followed upon that? The king of England gave us a king. What was the consequence of that? Both of us paid very dear for it. For, as the historians of both nations tell us, there followed upon it the longest and most bloody war that ever was betwixt two nations. Then, and not before, could it be said, that England had any pretence of homage from us.—Pray, my lord, had it not been better that our predecessors had of themselves chosen the worst of competitors, yea the worst men of the nation by a general consent, rather than to have sustained those calamities which followed on that division?—The other time, my lord, that we groaned under English bondage, was by Cromwell, who knew as well how to divide, as how

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to fight. We had called home king Charles the second, as successor to his father. Cromwell enters Scotland with an army, and prevails: what was the reason of it? Was his army comparable to ours in number? He knew very well king Charles the first, his master, had come upon us with a far better army, and we less prepared, and less accustomed to war; and yet, though sword in hand, he was necessitated to give us a valuable treaty at the Birks. He knew very well, that we had the remains of that gallant army, which had procured us so good conditions at the treaty of Rippon, and who afterwards had raised the parliamentary power above that of their sovereign. He knew, that we had the brave troops that had preserved the north of Ireland from the Irish rebels. Whence then came all those hopes of Oliver? It came, my lords, from our divisions: we were united in those former times, and broken then. In short we had the Hamiltons, Grahams, and Campbells, each driving on opposite designs. Nay, my lord, faction was come to that height of enthusiasm, that when we came to fight Cromwell at Dunbar, we would not fight but as Gideon did the Midianites, although we had no such warrant for it. I pray God, my lord, things come not to such an height now, especially when we, as they, mind more, who shall do such and such things, than what things are fittest to be done; so that every commissioner now must have the board swept clean, before he undertakes the queen's business. I speak not this, my lord, out of any resentment I have, by being lately turned out of a post, I profess I have not the least resentment upon it. Why should not the queen employ what servants she thinks fit? But I speak of it, because I am afraid it proves a seed to faction, it having proved so prolific already, as to have two crops in one year, though in this northern climate.—The two instances, where our unity preserved us from the fatal consequences of war with England, are those of king David and king James the first, after we had recovered under the conduct of the noble Bruce, who had forced the grand-child, by a most solemn renunciation, to yield up the claim of homage, unjustly imposed by the father upon us. Two unhappy accidents put these two kings in the hands of the English. Did they let go the opportunities to trump up their claim of homage? No, my lord. What hindered them to proceed further? King David had lost a considerable battle, was there made prisoner himself, many of the nobility killed and taken, England successful against France at the same time, and their king prisoner in England. King James 1. was their prisoner, being forced to fly from the unjust designs of his uncle Robert, and as unjustly made prisoner by them. These occasions, my lord, did appear favourable enough for England to make use of; but our firm unanimity put a stop to their designs. We declared we would not obey our kings as long as they were under English power and influence; and so both our armies in France and peers in Scotland, refused their oaths, as long as they were in England, looking upon them not as their king's commands, but the commands of an enemy. And thus we were preserved, and our kings delivered to us upon ransom.—My lord, I have observed, that England never let go any opportunity, neither before nor since the Union of the two crowns, to bring us under their power; and I am persuaded, that the heats and animosities amongst us these several sessions of parliament have, amongst other things, occasioned that threatening and unaccountable act of parliament, wherein they characterize our ministers, and criticise our acts; as it hath also given birth to those contemptible and ignorant pamphlets, published of late against the sovereignty and independency of our nation. Will you prevent the consequences of what is designed against us? Be as united as they in your actings against them. Did Whig and Tory differ about us? No, my lord: the two houses, though in civil war among themselves, did vie with one another, which of them should have the honour to give us the sharpest and severest blow.—To conclude, would you quench the fire that appears to be raised against us in England? Would you have a successful treaty and good limitations? Be unanimous: and, I hope, the case is not as yet so desperate, but what our predecessors have found, we may yet find the like.—It may be asked, my lord, how shall we be unanimous, and who shall yield? I think Providence has made that very easy with relation to this resolve. For suppose some be for limitations, that are not for a treaty; and others for a treaty, that are not for limitations; and that that those who are against a treaty, are against it because they do not expect reasonable and good conditions from England; and that those who are against limitations, are against them because they would prove of no long continuance, and consequently look upon them only as an amusement to bring us to the English succession. There is no reason, my lord, in all this, why both parties should not agree in the resolve: for, suppose all those suppositions should prove true, shall we then be in any worse condition than we are at present? Shall it be said, we will not so much as resolve to treat with England; or that limitations, which are in our power both to make and to keep, shall be looked upon by us as things impracticable, and of no duration? No, my lord, we have a gracious queen that will assist us in both, and who, in her gracious Letter, seems to desire both.—I do consider England, with relation to the succession of Britain, as so many fishes inclosed in a large strong net. They have room to swim, toss, and tumble; but, as long as the fisherman keeps his hold, they cannot break through. I believe by this time they are sensible, that the succession to the two kingdoms in Britain ought not to have been designed, much less settled, without acquainting one part of Britain with

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the design, and that one part independent upon the other. Therefore if we be united, and keep our hold, and make no unreasonable demand, either of limitations from our queen, or conditions from England, but merely such as the necessity of the nation requires; I hope, by the blessing of God upon our just endeavours, and the cordial support of our excellent sovereign, that we shall have all our desires granted, and a good understanding betwixt the two nations promoted, not for this time only, but for ever: which, if they do slight at this time, I dare pretend to prophesy, that the time will come, when they will give with less ceremony.—Thus, my lord, I have frankly told you my mind, and that with all deference and submission to this honourable house; and though I do not pretend to the thanks of this parliament, as the lord Haversham had of the house of lords, yet I will not yield to his lordship, as to my integrity and sincere concern for the commonweath of Britain. And in one thing, I think, I have the advantage, that what I have said tends to the composing of differences, first, among ourselves, and then betwixt our neighbouring nations and us. Whereas his lordship's Speech, if I be not as much mistaken as his lordship was at the time he spoke it, tends directly the quite contrary way. Therefore I am for the resolve, and for the beginning with the limitations."

The above Speech had such an effect, that, after some debate, the duke of Hamilton's Resolve was approved.

On the 20th of July, the parliament met again, and read the draught of a Letter presented by the marquis of Tweedale, in answer to her Majesty's Letter to the parliament; as also a draught of an Act for a Treaty with England, presented by the earl of Mar; another draught of an Act for a Treaty with England, presented by the marquis of Lothian; a draught of an Act concerning the way of chusing officers of state, privy-counsellors, and members of the exchequer and treasury, in case of Her Majesty's decease, without heirs of her body to succeed, presented by the earl of Rothes; and some other draughts of acts relating to trade: all which were ordered to be printed.

July 31. The duke of Queensberry arrived at Edinburgh, where he made a public entry with greater splendor and magnificence, and was received with greater demonstrations of joy, than the three times he had been commissioner. The next day he went to parliament, where the draught of a Letter, in answer to the queen's, was read, intimating "The parliament's readiness to establish the same successor with England; begging her Majesty would grant them such limitations to her successors, as were necessary for that purpose; and assuring her, that, if this was once done, they would chearfully set about the work." But a motion being made, that, preferably to that letter, the house should take into consideration acts relating to trade, the same was agreed to.

Proceedings upon the Limitations of the Succession.] This being over, the cavaliers inclined to proceed upon the Limitations, proposing thereby, in the first place, to obstruct the establishment of the Succession, in case, the projected Treaty should fail; for they knew the court would not grant them the royal assent, and that the succession would then miscarry. In the next place, to lay all the restraints possible on the monarch, in case the house of Hanover should come to the crown. And lastly, to ingratiate themselves with the people, who thought themselves oppressed by England, and were extremely fond of every thing, that seemed to free them from it. A motion being made on the 31st of July, to grant, the first reading to an act of commission for a Treaty with England, the duke of Hamilton, in opposition thereto, moved, That the house would proceed to the enacting the Limitations: and a vote being stated in these terms, 'Proceed to consider the act for a treaty, or limitations,' the latter was carried. In the next Sederunt, on the 2d of August, several acts for that purpose were presented; the most considerable of which was, an act for regulating the chusing the officers of state, enacting, "That from and after her majesty's decease, without heirs of her body, all officers of state, and privy-counsellors, and lords of session, should be chosen and appointed by the parliament; and in case of the decease of any of them, during the vacancy of parliament, the office to be supplied by one nominated by the council, who should continue in the same till next session of parliament: and that all the officers of state, and privy-counsellors should be accountable to the parliament."

The court offered, on the 16th of August, a clause, giving the power of chusing officers of state (which by this act was solely lodged in parliament) to the king, with consent of parliament, which was carried in the negative; as was also a motion, that there should be three presidents of the session, to preside by turns each two months.

On the 22d, the whole act was approved, and the next day an act for a Triennial Parliament was read in these terms: "Our sovereign lady, being willing to restore to her ancient kingdom, their ancient custom and right to frequency of parliaments, does therefore, with the advice and consent of parliament, statute and ordain, That there shall be a new parliament called and indicted, to meet, sit, and act; and that once every third year after the 1st of August in the year. And her majesty does hereby declare, with consent aforesaid, that this present parliament shall not continue and endure any longer than the 1st of August aforesaid; and this, without prejudice of her majesty and successors royal prerogative and power to dissolve parliaments sooner than the said term of three years, as shall be thought fit. And further, with the advice aforesaid, statutes and ordains, that, from and after the 1st day of August aforesaid,

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no farmer or collector of her majesty's customs or excise, or any other branch of her majesty's revenue, shall be capable to be a member of parliament, nor to sit and vote therein after the date aforesaid; and it shall be a sufficient objection against any member, that he is concerned, directly or indirectly, as a farmer or collector, in any part of her majesty's revenue, to remove him from his place and vote in parliament."

The courtiers saw it was to no purpose to oppose this act; and, being afraid of a new parliament, they only proposed, that this act should not take place during her majesty's life. The cavaliers, on the other hand, insisted, that it should commence immediately; but many members, who doubted their own interest to be elected anew, proposed a medium betwixt the two, that it should take place three years after the date, that is, the 1st of August 1708; with which, as the least of the two evils, the courtiers joined and carried it, and so the whole act was approved.

Another act ordaining, that the Scots ambassadors, representing Scotland, should be present, when the sovereign had occasion to treat with foreign princes and states, and accountable to the parliament of Scotland, was also approved: but several other overtures were made, that never were ingrossed into acts. Nor did the above-mentioned act obtain the royal assent, though the court promised it often to many of the members, and thereby kept them in good humour, while the Act for a Treaty was framing, they thinking themselves in a tolerable good state by those Acts of Limitation, and never imagining, that the Treaty would terminate as it did.

But Fletcher of Salton, having, in a long discourse, set forth the deplorable state to which the Scots nation was reduced by being subjected to English counsels and measures, while the same person was king of both kingdoms, concluded, that those acts were not sufficient, and therefore presented a scheme of limitations, which he proposed to be ingrossed into an act, and taken into consideration; "I. That elections should be made at every Michaelmas head-court for a new parliament every year, to sit the 1st of November next following, and adjourn themselves from time to time till next Michaelmas. That they chuse their own president, and that every thing be determined by balloting in place of voting.—II. That so many lesser barons should be added to the parliament, as there had been noblemen created since the last augmentation of the number of barons: and that in all time coming, for every nobleman that should be created, there should be a baron added to the parliament.—III. That no man should have a vote in parliament, but a nobleman, or elected member.—IV. That the king should give the royal assent to all the laws offered by the estates; and that the president of the parliament be impowered by his majesty to give the royal assent in his absence, and have ten pounds sterling a day salary.—V. That a committee of thirty-one members, of which nine be a quorum, chosen out of their number by every parliament under the king, should have the administration of the government, be his council, and accountable to the parliament, with power, on extraordinary occasions, to call the parliament together: and that, in the said council, all things be determined by balloting, instead of voting.—VI. That the king, without consent of the parliament, should not have the power of making peace and war, or of concluding any treaty with any other state or potentate.—VII. That all places and offices, both civil and military, and all pensions formerly conferred by the crown, should ever after be given by parliament.—VIII. That no regiment or company of horse, foot, or dragoons, be kept on foot in peace or war, but by consent of parliament.—IX. That all the fencible men in the nation, betwixt 60 and 16, be armed with bayonets and firelocks, all of a caliver; and continue always provided in such arms and ammunition suitable.—X. That no general indemnity, or pardon for any transgression, should be valid, without consent of parliament.—XI. That the fifteen senators of the college of justice should be incapable of being members of parliament, or of any other office or pension, but the salary, that belongs to their place, to be increased as the parliament should think fit. That the office of president should be in three of their number, to be named by the parliament, and that there be no extraordinary lords: as also, that the lords of the justice-court should be distinct from those of the session, and under the same restrictions.—XII. That, if any king should break in upon any of these conditions of government, he should, by the estates, be declared to have forfeited the crown." Fletcher enlarged upon every article, endeavouring to shew, that the first eight were necessary to prevent English influence over Scots affairs; the ninth, to enable the nation to defend its rights and liberties; and the tenth, to deter ministers of state from presuming to give the king bad advice, and doing things contrary to law. * The eleventh article he said was necessary to preserve the judicatories from corrupt judges: "And if the twelfth, concluded he, be not approved, sure I am, this house must own, the last king James was barbarously and unjustly treated." However this scheme of Limitations was never framed into an act.

Proceedings on the Plot.] Another material point under the consideration of this parliament, was the Plot. They had, in their former session, addressed the queen to transmit to

* "The earl of Stair having spoken against this scheme, Fletcher, in answer, said, "It was no wonder his lordship was against it; for, had there been such an act, his lordship had been long before hanged for the advices he gave king James, the murder of Glenco, and his conduct since the Revolution." Lockhart.

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them such persons, as were evidences in, and such papers as related to, that affair; and, in the beginning of this session, the dukes of Hamilton and Athol were very desirous to prosecute it to the utmost. But the cavaliers were not so forward; first, because they under a kind of engagement to the earl of Mar and sir James Murray of Philiphaugh, that, if the duke of Queensberry's friends opposed the marquis of Tweedale and his party, as in the former session, they should not insist on that affair; which would irritate the duke's friends to such a degree, that many of them would not concur in opposing the act for a treaty. In the next place, the cavaliers considered, that the edge of many people's indignation against the plot was blunted, by its lying so long dormant. And being, at the same time, apprehensive of being baffled, if they attempted any thing against the duke of Queensberry, they resolved to stand neuter, at least till they saw whether the dukes of Hamilton and Athol could prove any thing. It being moved, on the 28th of August, that the house might be acquainted what answer the queen had returned to the Address, the lord-commissioner declared, that he had received a letter from her majesty relating to that matter, and would signify her pleasure therein to the parliament in a few days. Accordingly, on the 11th of September, the lord-chancellor acquainted the house, that the rest of the papers relating to the late plot were now transmitted; and that they should be given to the clerk-register, to be perused by the members of the house. But, when the house took these papers into consideration, it was urged, that they were only copies, and that the principal evidences, such as sir John Maclean, Mr. Keith, and others remained in London; and that the parliament could not proceed any further in that affair, unless the original papers, and the persons who were evidences, were at their command. However the dukes of Hamilton and Athol, and Bailie of Jerviswood, made speeches in their own vindication, asserting, that the accusation against them in the discovery of the pretended plot was false and calumnious. The duke of Athol, in particular, made a long narrative of the beginning, progress and conclusion of the whole affair; accused the duke of Queensberry of endeavouring to give the queen sinister impressions of her good subjects; produced copies of letters sent from him to her majesty, affirming, that all the cavaliers had an hand in the plot, or, at least were enemies to her; and that, the better to carry on his design, he had employed and held correspondence with Frazer or lord Lovat. But, notwithstanding all this great clamour, no further notice was taken of this affair.

Proceedings touching an Union with England.] The business, which the court had principally at heart, was the act for a Treaty with England. The earl of Mar had, in the beginning of this session, presented an act for appointing commissioners to treat with commissioners from England of an Union; which lay upon the table, till most of the overtures in relation to trade and the limitations were discussed; but these things being over, the other was reassumed. This act was much of the same nature and import with the act passed in England, both impowering commissioners to meet and treat of an Union of the two kingdoms of England and Scotland, and restraining them from treating of any alterations of the church government, as by law established, in the respective realms. The only material difference was, that the English act not only gave the queen the nomination of the commissioners on the part of England, but required also that the queen should name and appoint the Scotch commissioners; whereas, in the draught presented by the earl of Mar, there was a blank for the power of the nomination. This gave occasion to Fletcher of Salton, in a pathetic speech, on the 28th of August, to inveigh against the haughty and imperious proceedings of the English in this affair; exhorting the house to resent this treatment, as became Scotsmen, for which purpose he offered an Address to be presented to her majesty, importing, "That the act passed in the parliament of England, containing a proposal for a Treaty of Union of the two kingdoms, was made in such injurious terms to the honour and interest of the Scots nation, that they, who represented that kingdom in parliament, could no ways comply with it; which they had the greater regret to refuse, because a Treaty of Union had, in this session, been recommended to them by her majesty. But that they should be always ready to comply with any such proposal from the parliament of England, whenever it should be made in terms no ways dishonourable or disadvantageous to the Scots nation." The house, rejecting this motion, called for the earl of Mar's draught, and for the English act, both which were read. The cavaliers and country party observing, that there was a great inclination in the house to set a treaty on foot, thought it improper to oppose it any longer in general terms; and therefore resolved to endeavour to clog the commission with such restrictions and provisions, as should retard the treaty's taking effect. In order thereto, the duke of Hamilton presented a clause to be added to the act, importing, "That the Union to be treated on should no ways derogate from any fundamental laws, ancient privileges, offices, rights, liberties and dignities of the Scots nation." This the courtiers vigorously opposed, as inconsistent with the intended entire or incorporating Union, of which the abolishing the Scots parliament was a necessary consequence. And thereupon they urged, "That, since Scotland and England were under one sovereign, who mediated between her two kingdoms, and England had already given ample powers to their commissioners, it would be unbecoming in Scotland to restrain their commissioners. That it would shew a jealousy of her majesty and might put a stop to the treaty, since England could not but expect, that the Scots com-

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missioners should have as ample powers as theirs. That there could be no danger in giving unlimited powers to their commissioners, since it was expressly provided, that no matter or thing treated of, and agreed to, should be of any force, unless it were first approved of and ratified by the parliaments of both kingdoms. And therefore when their commissioners should make their report of the scheme of Union that should be agreed on, then it would be proper for the house to consider, whether they would ratify or reject the same." To this it was answered, "That Scotland and England being under one sovereign made this clause necessary, since woeful experience taught them, and it had been often complained of in the house, that their sovereign was under English influence, and subject to the counsels of her English ministers, who regarded the interest and honour of Scotland no further, than was consistent with that of England. That the adding of this clause could never imply the least mistrust of the queen's inclinations towards her ancient kingdom, since all that could be made of it was, that the Scots parliament being sensible that the queen was not in a capacity to know the interest and circumstances of Scotland so well as those of England, had taken care to prevent any inconveniences, that might arise from thence. That there were some things so sacred, that the least innovation or alteration, much less the abrogating or suspending them, was never to be attempted, or the subject of any treaty. And the particulars of this clause, such as the sovereignty, independency, and freedom of the nation, being of this nature, ought therefore to be added. That England could not take it amiss, since they themselves had restrained their own commissioners from treating of any alteration in the church-government of that kingdom. That the Scots were a free independent people, and had a power to give what instructions, powers, and restrictions they pleased to their commissioners. Neither was it to be imagined, that England would refuse to treat upon account of this clause, because the very clause, in the same express words, was inserted in the act of the treaty in the reign of king James 6. and to the same purpose in most of the subsequent acts of treaty; and yet neither that king (who would have had good reason to be offended at any disrespect or distrust shewn, towards him) nor his successors, nor the parliament of England, made any scruple upon that account to meet and treat with the commissioners of Scotland." These and many other arguments were urged for and against the clause; but the question being put, whether it should be added, or not? It was carried in the negative by two voices only, through the neglect of seven or eight of the cavaliers and country-party, who happened to be absent.

This being over, another clause was offered importing, "That the commissioners should not go out of Scotland, to enter into any treaty with those to be appointed for England, until there was an act passed by the parliament of England, rescinding that clause in the English act, by which it was enacted, that the subjects of Scotland should be adjudged and taken as aliens, after the 25th of December 1705." The cavaliers insisted upon this clause as necessary to vindicate the honour of the nation from the injustice of the English in that act, upon a belief, that, if it were added, the English would not comply with it, and so the treaty would come to nothing. Upon the same consideration the courtiers opposed it; but observing it took with the house, they did not presume to do it openly, but by this artful motion, "That the clause should be approved, though not, as was proposed, ingrossed with the body of the act for a treaty; but, a resolve of the house passed, that, after the act was finished the house would immediately proceed to consider, whether the clause should be of force by a particular act, or by an order of the house;" and the question being stated, "Add the clause to the act, or by a separate way," the latter was carried. By this the courtiers were sure of having a treaty; for if the clause was turned into an act at the close of the session (when they had no more to require of the parliament) they might grant the royal assent to the act of treaty, or refuse it to this, as they should be directed from England: and in case the clause was turned into an order of the house, then they might dissolve the parliament, by which means the act, impowering the commissioners to treat, remained in force, and the order ceased. Before the vote was stated, upon the act for a treaty, the duke of Athol, on the 1st of September, entered his protest in these terms: "In regard, that by an English act of parliament made in the last session thereof, intitled, An act for the effectual securing England from the several acts lately passed in Scotland, the subjects of this kingdom are to be adjudged aliens, born out of the allegiance of the queen, as queen of England, after the 25th of December, 1705: I do therefore protest for myself, and in the name and behalf of all such as shall adhere to this my protestation, that, for securing the honour and interest of her majesty, as queen of this kingdom, and maintaining and preserving the undoubted rights and privileges of her subjects, no act for a treaty with England ought to pass in this house, unless a clause be adjected thereto prohibiting and discharging the commissioners that may be nominated and appointed for carrying on the said treaty, to depart the kingdom, in order thereto, until the said act be repealed and rescinded by the parliament of England." To this protest most of the cavaliers and country party, and all the squadron adhered, making in all twenty-four peers, thirty-seven barons, and eighteen boroughs. While the rolls were calling, upon this resolve (it being very late) many of the members, after they had given their votes, went out of the house, expecting, that the parliament would not have proceeded to any more business that night; but imme-

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diately after the last name in the roll was called, duke Hamilton, addressing himself to the chancellor, moved, that the nomination of the commissioners for the treaty should be left wholly to the queen. Upon this unexpected motion fourteen or fifteen of the cavaliers ran out of the house in rage and despair, saying aloud, "That it was to no purpose to stay any longer, since the duke of Hamilton had deserted and so basely betrayed them." However those, who remained, strenuously opposed the motion; and a hot debate arose upon it, wherein the cavaliers used the very arguments which duke Hamilton had often urged: "What! leave the nomination to the queen? No; she is in a manner a prisoner in England; and the estates of Scotland had taught us our duty in a case nearly related to this during the captivity of king James the first. Our queen knows none of us, but as introduced by her English ministry, and recommended by our inclinations to serve that kingdom. Our queen never had an opportunity to know the true interest of our country; and, though she did, yet in her present circumstances, cannot shew her regard for it: and who then so proper to nominate Scots commissioners to treat of Scots affairs as a Scots parliament?" Little or nothing was offered in answer either to these arguments, or against the motion, "That no person who had any estate in England, should be of the number of the commissioners:" Which was levelled at the duke of Hamilton. But the courtiers still insisting, that the sense of the house might be known in this matter, the question was put, "Whether the nomination of the commissioners be left in the queen or to the parliament?" And by reason of the absence of the members before-mentioned, it was carried for the queen by a majority of eight voices only. Duke Hamilton's proceeding in this affair was highly resented by the cavaliers; but he endeavoured to vindicate himself by alledging, that after the parliament had rejected the several clauses, that were proposed to be added to the act, he thought it in vain to contend any longer; and since the court would have had a majority, to give the nomination to the queen, he might be allowed to make her the compliment. Besides, it was the duke's opinion that if the commissioners named by the queen should do any thing, that should not be approved in the subsequent parliament, they might be the more severely censured for it, than if the parliament had named them. But it is thought, that the duke had a mind to be one of the commissioners himself; and fearing, that he should not be named by the parliament, he resolved to rely on the duke of Argyle's and the earl of Mar's promise of his being named by the queen; who having refused to do so, the duke of Argyle resented it so far, that he would not suffer himself to be named, and even threatened to oppose the Union, though means were afterwards found to induce him to alter his mind.

In the next sitting of the parliament, on the 4th of September, two draughts of an address were presented, one by the earl of Sutherland, the other by Fletcher of Salton, beseeching her majesty to use her endeavours with the parliament of England to rescind that part of the English act, declaring the subjects of Scotland to be aliens; both which draughts were read, as was also the overture of an act, ordaining, that the commissioners on the part of Scotland should not enter upon the treaty for an Union with England, until that clause were repealed. Hereupon the courtiers moved, that the parliament should proceed by way of order to their commissioners, and by address to her majesty, and not by way of act: and, after some debate, the question being put, was carried for the Order and Address, which were immediately drawn up, and unanimously agreed to. Then an overture of an act, was presented, discharging the peers of Scotland from going into England, without leave of the privy-council; but on the 6th of September, after a first reading of this overture, it was rejected. After this, the house considered the act for a treaty with England, and made some amendments to the clause containing the powers to be given to the commissioners. The cavaliers took this occasion to renew the motion, "That an Union should not derogate from any fundamental laws, ancient privileges, offices, rights and dignities, and liberties of the kingdom of Scotland;" but, after some debate the question being put, whether that clause should be added, it was carried in the negative, and then the act was approved, and received the royal assent. However the duke of Athol protested against it, for the reasons contained in his former protest, and was adhered to by 20 noblemen, 33 barons and 18 boroughs.

Sept. 23. The act for granting the queen a supply of six months cess, amounting to 432,800*l.* (Scots money) for maintaining the army, garrisons, and frigates for one year, was approved. On the 18th the house went upon the public accounts, and allowed to the commissioners of the same 200*l.* sterling each; 50*l.* to the clerk and 20*l.* to other servants; 1,500*l.* to the lord Belhaven; 300*l.* to the duke of Queensberry, and 3,000*l.* to the duke of Argyle, as being due to him; which sums were paid out of the 50,000*l.* sterling granted to the queen.

After this the parliament was adjourned to the 20th of December following.

A.D. 1706.

PROCEEDINGS *in the* SCOTS PARLIAMENT *relating to the* UNION *with* ENGLAND *.

The Commissioners of both kingdoms having prepared a complete scheme of an entire

* "Her Majesty's ministers were not insensible of the difficulties which they had to en-

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Union between the two nations, some particulars being only referred, to be settled by their respective parliaments; when every thing was agreed to, they presented one copy of the Treaty to the Queen, and each side had a copy, to be presented to their respective parliaments,

counter in the affair of the Union, against which, the dukes of Hamilton and Athol, the marquis of Annandale, the earls of Errol, Mareschal, and Buchan, the lord Belhaven, Mr. Fletcher of Salton, and some others, had formed a powerful party. The Commissioners from the shires and boroughs were almost equally divided, though, it was evident, they were to be the chief gainers by it. Among these the Union was agreed to by a very small majority. It was the nobility, that in every vote turned the scale for the Union: they were severely reflected upon by those who opposed it; and it was said many of them were bought off, to sell their country and their birthright. All those who adhered inflexibly to the Jacobite interest, opposed every step that was made with great vehemence, for they saw that the Union struck at the root of all their designs for a new revolution. Yet all these could not have raised or maintained so great an opposition as was made if they had not prepossessed with fears and jealousies the minds of many among the Presbyterian clergy, who had the greatest ascendent over the generality of the laity in Scotland. Among other indications of this temper of the Scots ministers at this critical juncture, it was taken notice, that, some days before the meeting of the parliament, one of duke Hamilton's chaplains proposed in the general assembly of the clergy, 'That, before an affair of so great importance, as the Union was, came to be debated before the estates of the kingdom, they ought to enter into an association for the preservation of the Presbyterian discipline, if the treaty concluded by the Commissioners of both kingdoms was ratified by the respective parliaments.' Another minister moved, 'That a day of fasting and humiliation should be appointed to seek the Lord for counsel in this arduous affair and time of danger.' But these two motions were rejected by the majority of voices. These jealousies of the Presbyterians, lest their church should suffer a change, and be swallowed up by the church of England, were infused into them chiefly by the old dutchess of Hamilton, who had great credit with them: and it was suggested, that she and her son had particular views, as hoping, that, if Scotland should continue a separate kingdom, the crown might come into their family, they being the next in blood after king James's posterity. The infusion of such apprehensions had a great effect on the main body of that party, who could scarce be brought to hearken to, but never to accept of, the offers that were made for securing their Presbyterian government. On the other hand, a great part of the gentry of Scotland, who had been often in England, and had observed the protection, which all men had from a house of commons, and the security which it procured against partial judges and a violent ministry, entered into the Union with great zeal. The opening a free trade, not only with England, but with the plantations, and the protection of the fleet of England, drew in those, who understood these matters, and saw there was no other way in view, to make the nation rich and considerable. Those who had engaged far into the design of Darien, and were great losers by it, saw now an honourable way to be reimbursed; which made them wish well to the Union, and promote it. But that, which advanced it most effectually, and without which it could not have succeeded, was, that a considerable number of noblemen and gentlemen, who were in no engagements with the court (on the contrary, had been disobliged and turned out of great posts, and some very lately) declared for it. These kept themselves very close and united, and seemed to have no other interest but that of their country, and were for that reason called the Squadrone. The chief of these were the marquis of Tweedale, the earls of Rothes, Roxburgh, Hadington, and Marchmont. They were in great credit, because they had no visible bias on their minds. Ill usage had provoked them rather to oppose the ministry, than to concur in any thing, where the chief honour would be carried away by others. When they were spoken to by the ministry, they answered coldly, and with great reserve; so that it was expected they would have concurred in the opposition; and, they being between twenty and thirty in number, if they had set themselves against the Union, the design must have miscarried. But they continued silent, till the first division of the house obliged them to declare; and then they not only joined in it, but promoted it effectually and with zeal.

"There were great and long debates managed on the side of the Union by the earls of Seafield and Stair for the ministry, and of the Squadrone by the earls of Roxburgh and Marchmont; and against it by the dukes of Hamilton and Athol, and the marquis of Annandale. The duke of Athol was believed to be in a foreign correspondence, and was much set on violent methods. The duke of Hamilton managed the debate with great vehemence, but was against all desperate notions. He had much to lose, and was resolved not to venture all with those, who suggested the necessity of running, in the old Scots way, into extremities.

"The topics from which the arguments against the Union were drawn, were the antiquity and dignity of their kingdom, which was offered to be given up, and sold: They were departing from an independent state, and going to sink into a dependency on England; what conditions soever might be now speciously offered, as a security to them, they could not expect that they should be adhered to, or religiously maintained in a parliament, where 16 peers and 45 commoners could not hold the

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all the three copies being signed by the commissioners of both kingdoms: It was resolved to lay the matter first before the parliament of Scotland, because it was apprehended it would meet with the greatest opposition there. Accordingly when the Scots parliament met, on

balance against above an hundred peers and 513 commoners. Scotland would be no more considered as formerly by foreign princes and states: their peers would be precarious and elective: they magnified their crown with the other regalia so much, that, since the nation seemed resolved never to suffer them to be carried away, it was provided, in a new clause added to the articles, that these should still remain within the kingdom. They insisted most vehemently on the danger, that the constitution of their church must be in, when all should be under the power of a British parliament: this was pressed with fury by some, who were known to be most violent enemies to Presbytery, of any in that nation: but it was done on design, to inflame that body of men by those apprehensions, and so to engage them to persist in their opposition. To allay that heat, after the general vote was carried for the Union, before they entered on the consideration of the particular articles, an act was prepared for securing the Presbyterian government: by which it was declared to be the only government of that church, unalterable in all succeeding times, and the maintaining it was declared to be a fundamental and essential article and condition of the Union; and this act was to be made a part of the act for the Union, which, in the consequence of that, was to be ratified by another act of parliament in England. Thus those, who were the greatest enemies to Presbytery, of any in the nation, raised the clamour of the danger that form of government would be in, if the Union went on, to such a height, that by their means this act was carried, as far as any human law could go, for their security: for, by this, they had, not only all the security that their own parliament could give them, but they were to have the faith and authority of the parliament of England, it being, in the stipulation, made an essential condition of the Union: the carrying this matter so far was done, in hopes that the parliament of England would never be brought to pass it. This act was passed, and it gave an intire satisfaction to those who were disposed to receive any; but nothing could satisfy men, who made use of this, only to inflame others.

"The party, who opposed the Union, finding the majority against them, studied to raise a storm without doors, to terrify them. A set of addresses against the Union were sent round all the countries, in which those, who opposed it, had any interest. There came up many of these in the name of counties and boroughs, and at last from parishes. This made some noise abroad, but was very little considered there, when it was known, by whose arts and practices they were procured. When this appeared to have little effect, pains were taken to animate the rabble to violent attempts, both at Edinburgh and at Glasgow. About two or three thousand commoners came in arms to Dumfries, and publicly burnt the articles of Union, and affixed on the market-cross a declaration of their reasons for so doing. Sir Patrick Johnston, lord provost of Edinburgh, had been one of the commissioners, and had concurred heartily in the design. A great multitude gathered about the house, and were forcing the doors, on design, as was believed, to murder him; but guards came and dispersed them. Upon this attempt, the privy-council published a proclamation, the next day, against tumults, and gave orders for quartering the guards within the town. But, to shew that this was not intended to overawe the parliament, the whole matter was laid before them, and the proceedings of the privy-council were approved. Although no person of distinction appeared among the rioters, yet it was no difficult matter to guess from what quarter that disturbance came, since, at the same time, that they insulted the High Commissioner, and other well-wishers to the Union, they attended the duke of Hamilton with loud acclamations, as he passed the streets to and from the parliament. However, no other considerable attempt was made after this; but the body of the people shewed so much sullenness, that probably, had any person of authority once kindled the fire, they seemed to be of such combustible matter, that the Union might have cast that nation into great convulsions. These things made great impressions upon the duke of Queensberry and on some about him. He despaired of succeeding, and he apprehended, that his person might be in danger. A friend of his wrote to the lord-treasurer Godolphin, representing the ill temper the nation was generally in, and moved for an adjournment, that so, with the help of some time and good management, those difficulties, that seemed then insuperable, might be conquered. The Lord-Treasurer's answer was, that a delay was, upon the matter, laying the whole design aside. Orders were given both in England and Ireland to have troops ready upon call; and, if it were necessary, more forces should be ordered from Flanders. The French were in no condition to send any assistance to those, who might break out: so that the circumstances of the time were favourable. The lord Godolphin desired therefore, that they would go on, and not be alarmed at the foolish behaviour of some, who, whatever might be given out in their name, he believed, had more wit than to ruin themselves. Every step that was made, and every vote that was carried, was with the same strength, and met with the same opposition: both parties giving strict attendance during the whole session, which lasted three months. Many protestations were printed, with every man's vote. In conclusion, the whole articles of the treaty were agreed to, with some small variations,

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the 3d of October 1706, his grace James duke of Queensberry, her majesty's High Commissioner, went to the parliament house, attended by most of the nobility, barons and members of parliament, where his grace's commission was read and recorded as usual.

The Queen's Letter to the Scotch Parliament.] After which, her majesty's letter to the parliament was read as follows:

"My Lords and Gentlemen: Since your last meeting, we did nominate Commissioners to treat of an Union between our two kingdoms of Scotland and England, and by their great care and diligence, a Treaty is happily concluded and laid before us.—We have called you together as soon as our affairs could permit, that the Treaty may be under your consideration, in pursuance of the act made in the last session of our parliament there; and we hope the terms will be acceptable to you.—The Union has been long desired by both nations, and we shall esteem it the greatest glory of our reign to have it now perfected, being fully persuaded, that it must prove the greatest happiness of our people.—An entire and perfect Union will be the solid foundation of lasting peace: it will secure your religion, liberty and property, remove the animosities among yourselves, and the jealousies and differences betwixt our own two kingdoms: it must increase your strength, riches, and trade: and by this Union the whole island, being joined in affection, and free from all apprehension of different interests, will be enabled to resist all its enemies, support the protestant interest every where, and maintain the liberties of Europe.—We do upon this occasion renew the assurances, we have formerly given you, of our resolution to maintain the government of the church, as by law established in Scotland, and the acts of both parliaments, upon which this Treaty proceeded, having reserved their respective governments of the church in each kingdom; the commissioners have left that matter entire; and you have now an opportunity for doing what may be necessary for securing of your present church government, after the Union, within the limits of Scotland.—The support of our government, and your own safety does require, that you do make necessary provision for maintaining the forces, ships and garrisons, until the parliament of Great Britain shall provide for these ends in the united kingdom.—We have made choice of our trusty and right entirely beloved cousin and counsellor, James duke of Queensberry, to be our commissioner, and represent our royal person, being well satisfied with his fitness for that trust, from experience we have of his capacity, zeal and fidelity to our service, and the good of his country; which, as it has determined us in the choice, we doubt not but will make him acceptable to you.

"My Lords and Gentlemen: It cannot but be an encouragement to you to finish the Union at this time, that God Almighty has blessed our arms, and those of our allies, with so great success, which gives us the nearer prospect of a happy peace, and with it you will have the full possession of all the advantages of this Union; and you have no reason to doubt but the parliament of England will do what is necessary on their part, after the readiness they have shewn to remove what might obstruct the entering on the Treaty. We most earnestly recommend to you calmness and unanimity, in this great and weighty affair, that the Union may be brought to a happy conclusion, being the only effectual way to secure your present and future happiness, and to disappoint the designs of our and your enemies, who will, doubtless, on this occasion, use their utmost endeavours to prevent or delay this Union, which must so much contribute to our glory, and the happiness of our people: and so we bid you heartily farewell.—Given at our court at Windsor castle, the thirty first day of July, 1706; and of our reign the fifth year."

The Lord High Commissioner's Speech.] The Letter being read, his grace the duke of Queensberry, her majesty's High Commissionner, spoke as follows:

"My Lords and Gentlemen: Her majesty, by her gracious letter, has acquainted you, that the Treaty of Union between the kingdoms of Scotland and England (pursuant to an act made in your last session) has been happily agreed on, which is now in my lord register's hands, ready to be laid before you.—The lords commissioners for this kingdom have been diligent and zealous in concerting just and reasonable terms; and it must be acknowledged, we meet with a very fair and friendly disposition in the lords commissioners on the other part.—The Treaty has, with all humility, been presented to the queen, and was most graciously received; and though no reign was ever so truly great, for wise and steady councils, and so many important successes, as that of her majesty, yet, you see, she is pleased to esteem the perfecting of this Union, as the greatest glory of her reign, being the most solid foundation of a lasting security to the Protestant religion, and the liberties of Europe, and of peace and happiness to her people.—These reasons, I doubt not, will make the Treaty acceptable to you; and I persuade myself that you will proceed with such calmness and impartiality, as the weight of the subject requires, and as becomes so great an assembly.—The lords commissioners for both kingdoms were limited in matter of church government; for the security of Presbyterian government in this church, you have the laws already made for its establishment, the queen's repeated assurances to pre-

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"The earl of Stair, who had all along exerted himself with great zeal in favour of the Union, and who, though much indisposed, came on the 7th of January to the parliament house, and maintained the debate upon the 22nd article, died suddenly the next night, his spirits being quite exhausted by the length and vehemence of the debates." Tindal.

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serve it, and I am empowered to consent to what may be farther necessary after the Union.—Her majesty has been pleased to recommend to you to make provision for the forces, ships, and garrisons, which is very necessary, the subsidies granted at your last meeting being run out; so I doubt not but you will speedily renew them.—My Lords and Gentlemen: I am not insensible of the great difficulties that attend the weighty character, it has pleased her majesty to honour me with, but with your assistance, upon which I very much rely, I hope, by my zeal, and fidelity for her majesty's service, and the good of my country, which are inseparable, to discharge my duty on this extraordinary occasion."

The Lord Chancellor's Speech.] His grace had no sooner done, than the earl of Seafield, lord high chancellor, spoke to them in this manner:

"My Lords and Gentlemen; It hath been, and is the greatest happiness of this nation, that the queen our sovereign, hath always made it the chief design of her reign, to protect her subjects in the enjoyment of all their rights and privileges, to promote their good, and to establish their peace and prosperity upon sure and lasting foundations.—For these ends, her majesty, in her most gracious letter, doth, with great earnestness, recommend to you the concluding of the Union of the two kingdoms, and has plainly and fully laid before you the great advantages that this Union must bring with it to all Britain, and in particular to this kingdom.—The lords commissioners named by her majesty for this kingdom, to treat of this Union, have endeavoured to discharge this great trust with all fidelity, and have agreed to such terms and conditions as I hope shall be found just, honourable and advantageous; The Treaty has been already received very graciously by her majesty, and is now ready to be reported to you, for your consideration.—I do not think it proper, at this time, to descend into the particular Articles of this Treaty; I shall only beg leave to say in general, that it must be of great advantage to have this whole island united under one government, and conjoined entirely in interest and affection, having equality of all rights and privileges, with a free communication and intercourse of trade, which must certainly establish our security, augment our strength, and increase our trade and riches.—We can never expect a more favourable juncture for compleating this Union, than at present, when her majesty has not only recommended it, but declared, that she will esteem it the greatest glory of her reign, to have it perfected; and when the parliament of England has shewn its inclination for it, by removing all those obstacles that did lie in the way of the Treaty: and it must also be acknowledged, that the lords commissioners for England did testify their good disposition all along in this affair; and the great and glorious successes wherewith God has blessed her majesty's arms, and those of her allies, give us the hope of a near and advantageous peace, whereby we will be put in the possession, and attain to the full enjoyment of all the liberties and privileges of trade, now offered by the Treaty.—The commissioners of both sides have only treated of such things as concern the civil government, liberties, privileges, trade, and taxes; but found themselves limited as to the church government, that being reserved to each kingdom by the respective acts of parliament, upon which the Treaty proceeded: and you have now not only the laws already made, with her majesty's most gracious, repeated assurance, for maintaining and continuing Presbyterian church government within this kingdom: but this further opportunity of making such conditions and provisions, as shall be found necessary for its security, after the conclusion of this Union, within the limits of Scotland.—Her majesty recommends to you, to provide the necessary supplies for the troops, garrisons and ships; the funds formerly given, are expired; and therefore I doubt not but you will easily comply with what is so plainly necessary, for the preservation of the public safety, and preventing the designs of enemies now in time of war.—Since we have now the opportunity of establishing for ourselves and our posterity, by this Union with England, all that concerns our religion and liberties, together with the most valuable privileges of trade, I am hopeful that you will proceed to the consideration of the Articles of the Treaty, in such manner as shall bring it to the desired conclusion; and it cannot but tend to the lasting honour of this session of parliament, to have so happily finished this most important and weighty matter."

Proceedings about the Union.] Oct. 12. It was moved, That the Articles of the Union, carried on by the Commissioners of both kingdoms, should be read, as also the minutes of the said Commissioners. And they ordered that all records, relating to former treaties between both kingdoms, should be laid before the house; and that in the intervals of parliament, they should be seen in the lower parliament, where some of the lord Register's servants were to attend. And the Articles of Union being accordingly read again, it was agreed, that the parliament should proceed to the consideration of them.

Oct. 15. When they debated the vote of the 12th, to proceed the Articles of the Union, or delay: the country party argued for a delay: but being put to the vote, it was carried proceed, Yeas 116, Noes 52; so that it was carried by 64.

Oct. 16. They read the first eight Articles of the Treaty, and the proceedings of the Commissioners relating to them: and on the 19th, the IXth, Xth, XIth, XIIth, XIIIth, and XIVth, were all severally read, with the proceedings of the Commissioners in the Treaty relating to them: and were all discoursed on. Then the XVth Article was read, with the proceedings relating to it: and after some reasoning, there arose a debate about the calculation

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of the sums therein mentioned; which was adjourned till the next meeting. The calculations debated, were about the equivalent of 398,080*l.* 10*s.* to be granted to Scotland, for coming into several customs, now payable in England, and applicable towards payment of the debts of England, contracted before the Union; according to the proportions which the present customs in Scotland, being 30,000*l.* per annum, did bear to the customs in England, computed at 1,351,559*l.* per annum; and which the present excise in Scotland, being 33,500*l.* per annum, bears to the excise in England, computed at 947,602*l.* per annum.

Oct. 22. The debate about the calculation of the Equivalent of 398,085*l.* 10*s.* was resumed; and after some time spent upon it, it was agreed to name a Committee of three persons of each State, to proceed and examine the said calculation, and to report the same to the parliament. Then several paragraphs of the XVth Article were read again, and further argued on. The XVIth and XVIIth Articles were also read; and with the proceedings of the Commissioners relating to them, were also argued upon. So was the XVIIIth Article, and the proceedings relating to it, and after some discourse upon it, the further consideration of this article was delayed till the next sitting; the same day several members spoke to equivalent and trade in general, and to that of the African company in particular: upon the latter, there were two motions made, one, that the parliament should insist upon a compensation of all the losses the Darien company had sustained, since those losses were occasioned by the undue intermeddling of England, as appeared by former votes of the parliament of Scotland. The other was, that seeing the equivalent to be given to the proprietors of the African company, was not to be paid by England, but out of the Scots customs and excise, and therefore the property of that company ought to belong to the kingdom of Scotland, as a national company, and not to be abandoned until the nation saw a proper occasion, and an adequate price for it. Both these motions, and several others of the like sort, were laid upon the table, to be considered when the Articles to which they related were taked into consideration.

Oct. 23. The XVIIIth article of the Union was again read, when it was moved, that the English laws concerning the regulation of trade, &c. to which Scotland, by virtue of the treaty, was liable, be printed. Moved also, that the English book of rates, with the abridgment of the laws relating thereunto, be printed. Moved also, that it be remitted to a committee of parliament, to cause such of the said laws to be printed as they shall see just, or to report to the parliament. And after some debate upon it, the further consideration of it was delayed till the next sitting.

The Lauder Instructions read.] Oct. 29. The day that the XIXth, XXth, and XXIst Articles were read and debated, and that the XXIId and XXIIId was read, a Print was delivered to all the members as they entered the house, which ran in these words:

"INSTRUCTIONS by the Magistrates and Town Council of the Burgh of Lauder, to their Commissioner in Parliament, in relation to the Union proposed betwixt the Kingdoms of Scotland and England.

"At Lauder the 23d day of October, 1706 years, the which day the bailiffs and town-council of the burgh of Lauder, being convened in council within the Tolbooth of the said burgh, having received a letter directed to them from the right honourable sir Samuel Mackclellan, lord provost of Edinburgh, dated the 15th day of October instant, calling and indicting a general convention of the royal boroughs, to be holden and to sit at Edinburgh upon the 29th day of this instant October, and intreating to send a commissioner to the said convention, fully instructed, in relation to the Union proposed betwixt the kingdoms of Scotland and England, &c. as the said letter bears. And the said letter, with the articles of the said proposed Union, being both verbatim publicly read, in presence of the bailiffs and council and all the other burgesses, inhabitants of the said burgh, allowed by the bailiffs and council in this so great concern, to be there present, and to give their opinions. It was unanimously agreed to by the bailiffs and council, with consent of their neighbouring burgesses, that sir David Cunninghame of Milncraig, knight and baronet, and their commissioner and representative in this present parliament, should be their commissioner in the foresaid general convention of boroughs, in the terms of their commission of the date hereof. And being fully convinced, that albeit their commission for representing them in this current parliament, be conceived in the most full and ample terms imaginable, yet the same can never empower him to act or vote any thing which may tend to the impairing or subverting, or altering any manner of way his constituents constitution, rights or privileges, without their particular and unanimous consent given him for that effect. And having likewise seriously considered the several and particular Articles of the said proposed Union, and that they look upon themselves as bound in duty, at this time, to give their opinion in relation to the Union proposed, do therefore unanimously give it as their humble opinion, That the devolving the powers of the Scots parliament into the hands of a small number of lords, barons and boroughs, allowed by the said proposed Articles to sit and vote with the whole Lords and Commons of England, in a parliament to be called the parliament of Great Britain, is disbonourable and prejudicial to the kingdom of Scotland, tending to the destruction of their ancient constitution, and all their rights and privileges, as a free people in general, and to every individual person and

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society within the same, especially that of the boroughs.

"Therefore, unless it shall be first agreed to in this present parliament, or any other before the said Union, that the Scots parliament shall continue in all time hereafter as formerly, and the laws and subjects of Scotland shall be only subjected to the wisdom of a Scots parliament, constituted according to the laws of the said kingdom: The said bailiffs and council, with consent of their burgesses, have empowered, authorized and required, and hereby empower, authorise and require the said sir David Cunningham, their commissioner in this present parliament for them, and in their names and behalf, in open and plain parliament, by his vote to dissent to, and disapprove of all and every one of the Articles of the said proposed Union. And in case the said sir David shall not follow and obey these our instructions, we protest, that his vote in the contrary thereof is null, being not only contrary to his constituents their instructions, but likewise tending to the impairing and subverting of their constitution and privileges: but in case it shall be first agreed to, by this or any succeeding parliament, that this and the succeeding parliament shall continue as formerly, we then promise to give him, or any other our commissioner for the time, our particular instructions, as to the other several Articles of the said proposed Union. And that this our opinion and proceedings may be made known to our brethren the other royal boroughs, we have ordained these presents to be publicly printed and dispersed among them. In testimony whereof the said sir David Cunningham's commission to the royal boroughs, and these his instructions to the parliament, being subscribed by the bailiffs in presence of, and at the command of the council, are extracted forth of the town-court books of the borough of Lauder, by Mark Henderson, common clerk of the same, and the common seal of the said burgh is hereunto affixed.

"*Sic subscribitur*, M. Henderson, Clerk."

The same day, Mr. Fletcher of Salton took the freedom to say in parliament, that the interest and honour of the nation was betrayed by their Commissioners. This occasioned a great heat in the house, and it was demanded that he should be called to the bar; upon which several members of all ranks stood up to vindicate what he had said: and after a long debate it was proposed, that he should explain himself. The explanation which he gave was to this effect, that he could find no other name but treachery to the acting of those gentlemen: he did indeed acknowledge that the word was harsh, but it was truth; and if the house thought he had committed any offence by the expression, he was willing to submit to their censure; upon which the debate was let fall.

When the Articles about the number of Scots Lords and Commons, that were to be admitted to the parliament of Great Britain, and the proceedings of the commissioners relating to the same, were read, there were sharp Speeches on both sides, particularly betwixt the marquis of Annandale, and earl of Stair, by Mr. Fletcher of Salton, the lord justice clerk, and sir A. Home. And the duke of Hamilton concluded with one, wherein many doubts were proposed about the quota of the Scots Lords and Commons, and the yielding the precedency of the Scots peers, to all the English of the same rank: to which no answer was given, nor any vote proposed that night, so that they adjourned.

It must be owned that those who opposed the Union, left no stone unturned to carry their point; they and their emissaries talked of addresses from all the corners of the kingdom against the present scheme, wherein they pretended not to be against an Union, but against the terms, as proposed in the present Article; so that many of the traders, who at first seemed fond of it, now imbibed other notions, and pamphlets were spread about to persuade the Presbyterians, that this scheme was contrary to their national and solemn league and covenant, and that by the sacramental test, which was established in England, they would be excluded from all public posts in the government of Great Britain: and others pretended to assure them, that if they made the repeal of that test a condition for the Union, it would be complied with in England.

The parliament having read the XXIVth and XXVth, being the two last Articles, on the 30th, they adjourned to November 1st.

Several Petitions against the Union read.] The parliament went through the first reading of the Articles of the Union, last month, and on the 1st of November it was moved, that they should then proceed to the further and more particular consideration of the Articles of Union, in order to approve or not, and to begin with, and read the first Article. Moved also, that the further consideration of the Articles of the Union should be delayed for some considerable time, till the sentiments of the parliament of England concerning it be known; and that the members of parliament might consult those whom they represented. And after some debate on those motions, several Petitions and Addresses were presented, viz. One in the name of the barons, freeholders, and others, within the Shire of Midlothian: Another in name of the barons, freeholders and others within the Shire of Linlithgow: and three, in name of the barons and freeholders of Perth-shire: all against allowing of an incorporating Union with England; and read and discoursed on. And thereafter the debate for delay, on account of those whom the members represented, and of knowing the sentiments of the nation, and the procedure of the parliament of England, was let fall, and agreed that the first Article of the Union should be read; but that it should be entire next

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Sederunt of parliaments to debate whether or not the first Article should be concluded, by approving thereof, or not. Or if the parliament might not, before concluding thereof, begin with and conclude any other of the Articles. And accordingly the first Article was read. The rest of the day was spent in reading and reasoning on the Addresses; the country party argued, that the Union was a matter of so great and general concern, that it was not to be gone into with precipitation, and that there were many more addresses coming, by which they would see the inclinations of the country, and of their constituents. After this several other proposals were offered as preliminaries, before they should enter upon the treaty; one of which was, that this kingdom should for ever be the place of the prince's education and residence; then there was a debate, whether they should proceed immediately to the consideration of the first Article of the Treaty, or the security of the Kirk. This lasted till night, and then the parliament was adjourned till next day, when accordingly they met, and had a very warm debate, whether they should first secure the Kirk, or enter on the first Article. Much time being spent in this, my Lord Register gave in a resolve as the state of the vote, that they should enter on the Article; but with this proviso, that though it should be voted and approved, it should be no ways binding, except all the rest were agreed to. In opposition to this, it was proposed, that the state of the vote should be simply, enter on the Article, or first secure the Kirk. A great many spoke for both states of the vote; but being put to the question, the Lord Register's was carried by a majority of 38, and then approved by a greater number.

Nov. 2. During the debate, whether the security of the Kirk, or the first Article for uniting both nations into one kingdom, under the name of Great Britain, should have the preference; it was urged, that according to the laudable custom of this kingdom, as appears by their ancient acts of parliament, the Kirk had always the preference to every thing else. But a lord, when he found that the first Articles of the Treaty had the preference, alluding, with respect to some who were of the opposite side, to Julius Cæsar's saying in the Senate, Et vos etiam mei Filii? And are you also against me my sons? There had been endeavours likewise used in the commission of the general assembly, to possess them with apprehensions of the danger of the Kirk, from twenty-six bishops being in the parliament of Great Britain, where the Kirk could have none to represent her, from the English sacramental test, and for the oath of abjuration, by which they must approve that part of the limitations, which obliged the sovereign to be of the church of England, &c. Notwithstanding all which, it was criminal, by the law of England, to say, the prince and parliament had no power to alter the succession. Upon which they would have carried things, in the commission, against an incorporating Union, but were prevented by the ruling elders. And in order to make the Kirk easy, there were some who promised, that when the Article for an incorporating Union passed, they should have an irritant clause to make the Union void, in case the parliament of Great Britain should in time to come, alter the present government of the Kirk of Scotland. However, many of the ministers and zealous Presbyterians expressed their displeasure, that the security of the Kirk had not the preference.

Mr. Seton's Speech.] After this there were several long and smart Speeches. Mr. *Seton*, of Pitmadden, spoke thus:

"My Lord Chancellor; This honourable house has heard the several Articles of the Treaty of Union twice read, has spent a considerable time in discoursing to each of them, and, after much debate, is come to examine and determine upon the first. Notwithstanding all the arguments offered against it, I cannot find the least motive for altering the opinion I had at signing this Article, having had the honour to be one of the commissioners appointed by her majesty for that end; but that I may give all satisfaction to every member, I shall humbly offer, in a plain manner, my thoughts in relation to it.—My Lord, this Article is the foundation of the whole Treaty, and the approving or rejecting it must determine Union or no Union betwixt both kingdoms.—How far the approving this Article conduces to our happiness, appears evidently, by considering the three different ways proposed for retrieving the languishing condition of this nation; which are, that we continue under the same sovereign with England, with limitations on his prerogative as king of Scotland; that the two kingdoms be incorporated into one; or that they be entirely separated.—That the Union of Crowns with limitations on the successor is not sufficient to rectify the bad state of this nation, appears from these positions founded on reason and experience.—Two kingdoms subject to one sovereign, having different interests, the nearer these are one to another, the greater jealousy and emulation will be betwixt them.—Every monarch, having two or more kingdoms, will be obliged to prefer the counsel and interest of the stronger to that of the weaker: and the greater disparity of power and riches there is betwixt these kingdoms, the greater influence the more powerful nation will have on the sovereign. Notwithstanding these positions, I shall suppose the parliament of Scotland is vested with the power of making peace and war, of rewarding and punishing persons of all ranks, of levying troops, and of the negative itself.—I could shew the inconveniences that must attend such a state of government, in disposal of places, and managing public affairs. I could likewise shew the improbability of attaining such conditions, or keeping them if attained. But laying aside such considerations, my humble opinion is, that we cannot reap any benefit from these conditions of government, without the as-

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sistance of England; and the people thereof will never be convinced to promote the interest of Scotland, till both kingdoms are incorporated into one: so that I conceive such a state of limitations to be no better for Scotland, than if it were entirely separated from England; in which state there is little appearance of procuring any remedy to our present circumstances, which appears from these uncontroverted positions:—The people and government of Scotland must be richer or poorer, as they have plenty or scarcity of money, the common measure of trade.—No money or things of value can be purchased in the course of commerce, but where there is a force to protect it.—This nation is behind all other nations of Europe, for many years, with respect to the effects of an extended trade.—This nation being poor, and without force to protect its commerce, cannot reap great advantages by it, till it partake of the trade and protection of some powerful neighbour nation, that can communicate both these.—To illustrate this last position, I shall give a short view of the state of commerce we must needs be in, with respect to our neighbour nations, supposing an entire separation from England.—The ordinary mean whereby we can flourish in wealth, is, that balance which arises from the exchange of our natural or artificial product with other places: but we have no valuable branch of export, which does not interfere with the like commodity, in some more powerful neighbour nation, whose interest it is to suppress or discourage our commodity, for raising the value of its own; so that there is no demonstrable security for the vent and encouragement of any branch of our export. —Can it be expected, that Holland will suffer us to improve our fishery, which is to them a nursery for seamen, a livelihood to many families, and an immense treasure to the public.—If we traffic with England, our linen cloth, cattle, and coals will be discouraged, at least after the same manner that we discourage export from thence. If we traffic with Muscovy, Sweden, Denmark, Poland, Germany, France, Spain, Portugal, and Italy, the sale of our commodities will be of small value in those places; seeing the Dutch or English, by their increase of trade, are capable to serve them with most of the like goods cheaper and better than we. —Let us look to any other part of the world for vent to our product, and we will find other nations have prevented us.—If we attempt the East-India trade, that is already enhanced by the Dutch, English, French, Spaniards, or Portuguese, from whom we must expect opposition, they themselves opposing one another daily; and we of no force to debate the same with the most inconsiderable of them.—The trade of Africa, is for the most part, of small value; and every province of America is claimed as property, by some powerful European nation.—If it be said, that Scotland may make alliance with one of its neighbour nations for protection; that alliance must be with Holland, England or France. Other countries being so remote or poor, that their friendships can be of little use to us.—With Holland we can have no advantageous alliance, because its chief branch of trade is the same with ours; with the English we can expect no profitable friendship, for they being our near neighbours, will be jealous of our increase in power; and from France few advantages can be reaped, till the old offensive and defensive league be revived betwixt France and Scotland, which would give umbrage to the English, and occasion a war betwixt them and us. And allowing the Scots, in such a juncture, with the assistance of France to conquer England; Scotland, by that conquest, could not hope to better its present state; for it is more than probable, the conqueror would make his residence in England, as formerly the northern people used to do in their southern expeditions. — From these considerations, I conceive, that this nation, by an entire separation from England, cannot extend its trade, so as to raise its power in proportion to other trafficking nations in Europe; but that hereby we may be in danger of returning to that Gothic constitution of government, wherein our forefathers were, which was frequently attended with feuds, murders, depredations and rebellions.—My Lord, I am sorry, that, in place of things, we amuse ourselves with words; for my part, I comprehend no durable Union betwixt Scotland and England, but that expressed in this Article by one kingdom, that is to say, one people, one civil government, and one interest.—It is true, the words, Fœderal Union, are become very fashionable, and may be handsomely fitted to delude unthinking people; but if any member of this house will give himself the trouble to examine what conditions or articles are understood by these words, and reduce them into any kind of fœderal compacts, whereby distinct nations have been united, I will presume to say, these will be found impracticable, or of very little use to us.—But to put that matter in a clear light, these queries ought to be duly examined, Whether a Fœderal Union be practicable betwixt two nations accustomed to a monarchical government? Whether there can be any sure guaranty projected for the observance of the articles of a fœderal compact, stipulated betwixt two nations, whereof the one is much superior to the other in riches, numbers of people, and an extended commerce? Whether the advantages of a Fœderal Union do balance its disadvantages? Whether the English will accept a Fœderal Union, supposing it to be for the true interest of both nations? Whether any fœderal compact betwixt Scotland and England, is sufficient to secure the peace of this island, or fortify it against the intrigues and invasions of its foreign enemies? and, Whether England, in prudence, ought to communicate its trade and protection to this nation, till both kingdoms are incorporated into one?—To clear this last query, I shall offer a remark from history.—Of two independent and distinct kingdoms, united by a fœderal compact, under one sovereign,

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the weaker, to preserve its interest, has sometimes separated from the stronger, unless prevented by open force, or secret influence on its government.—Spain and Portugal were subject to the same sovereign, Philip 2, and, notwithstanding the Portuguese got most advantageous conditions from Spain, they no sooner found a favourable opportunity in the reign of Philip 4, than they revolted from their allegiance, and elected the duke of Braganza for their king.—Sweden and Denmark were united by a fœderal compact under one monarch; but the Swedes judging a separation more for their interest, broke off, and chose Gustavus 1, for their king.—My lord, I should now consider an incorporating Union, as it is expressed in this Article by one kingdom; but that I may not take up the time of the house, I shall only give one historical remark with relation to it.—Two or more distinct kingdoms or states, by incorporating into one kingdom, have continued under the same sovereign, enjoying equally the protection of his government, and every part of the body politic, though never so far removed from the seat of government, has flourished in wealth, in proportion to the value of its natural product, or the industry of its inhabitants.—To prove this remark, there are many examples.—Spain was formerly divided into several kingdoms, ten whereof are incorporated into the one kingdom of Spain.—France was formerly divided into twelve states, which are incorporated into the one kingdom of France.—England was formerly divided into seven kingdoms, which are incorporated into the one kingdom of England; Scotland itself was formerly divided into two kingdoms, which at present are incorporated into the one kingdom of Scotland.—I could give some account of the particular advantages we will obtain by an incorporating Union with England; but there will be occasions to discourse of these, as the other Articles fall under the consideration of this parliament. In general, I may assert, that by this Union, we will have access to all the advantages in commerce the English enjoy: we will be capable, by a good government, to improve our national product, for the benefit of the whole island; and we will have our liberty, property, and religion, secured under the protection of one sovereign, and one parliament of Great Britain. —Now, my Lord, if limitations on the successor can be of little or no use to us; if an entire separation from England brings no advantage to this nation; and if all fœderal compacts, as we are stated, have insuperable difficulties, which in some measure I have cleared, there is but one of two left to our choice, to wit, That both kingdoms be united into one, or that we continue under the same sovereign with England, as we have done these hundred years past. This last I conceive to be a very ill state; for by it (if experience be convincing) we cannot expect any of the advantages of an incorporating Union: but on the contrair, our sovereignty and independency will be eclipsed; the number of our nobility will increase; our commons will be oppressed; our parliaments will be influenced by England; the execution of our laws will be neglected; our peace will be interrupted by factions for places and pensions; luxury, together with poverty (though strange) will invade us; numbers of Scots will withdraw themselves to foreign countries; and all the other effects of bad government must necessarily attend us.—Let us therefore, my lord, after all these considerations, approve this Article; and when the whole Treaty shall be duly examined and ratified, I am hopeful, this parliament will return their most dutiful acknowledgments to her majesty, for her royal endeavours in promoting a lasting Union betwixt both nations."

Lord Belhaven's Speech against the Union.] Next spoke the Lord Belhaven, but without answering what had been said by Mr. Seton. He made a long premeditated speech, as follows:

"My lord Chancellor; When I consider the affair of an Union betwixt the two nations, as it is expressed in the several Articles thereof, and now the subject of our deliberation at this time; I find my mind crowded with variety of melancholy thoughts, and I think it my duty to disburden myself of some of them, by laying them before, and exposing them to the serious consideration of this honourable house.—I think I see a free and independent kingdom delivering up that, which all the world hath been fighting for since the days of Nimrod; yea, that for which most of all the empires, kingdoms, states, principalities, and dukedoms of Europe, are at this time engaged in the most bloody and cruel wars that ever were, to wit, a power to manage their own affairs by themselves, without the assistance and counsel of any other.—I think I see a national church, founded upon a rock, secured by a claim of right, hedged and fenced about, by the strictest and most pointed, legal sanction that sovereignty could contrive, voluntarily descending into a plain, upon an equal level with Jews, Papists, Socinians, Arminians, Anabaptists, and other sectaries, &c.—I think I see the noble and honourable peerage of Scotland, whose valiant predecessors led armies against their enemies, upon their own proper charges and expences, now divested of their followers and vassalages, and put upon such an equal foot with their vassals, that I think I see a petty English exciseman receive more homage and respect than what was paid formerly to their quondam Mackallamores.—I think I see the present peers of Scotland, whose noble ancestors conquered provinces, over-run countries, reduced and subjected towns and fortified places, exacted tribute through the greatest part of England, now walking in the court of requests like so many English attornies, laying aside their walking swords when in company with the English peers, lest their self-defence should be found murder.—I think I see the honourable estate

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of barons, the bold assertors of the nation's rights and liberties in the worst of times, now setting a watch upon their lips, and a guard upon their tongues, lest they be found guilty of scandalum magnatum.—I think I see the royal state of boroughs walking their desolate streets, hanging down their heads under disappointments, wormed out of all the branches of their old trade, uncertain what hand to turn to, necessitate to become 'prentices to their unkind neighbours; and yet after all, finding their trade so fortified by companies, and secured by prescriptions, that they despair of any success therein.—I think I see our learned judges laying aside their practiques and decisions, studying the common law of England, gravelled with Certioraries, Nisi Prius's, Writs of Error, Verdicts Indovar, Ejectione Firmæ, Injunctions, Demurs, &c. and frighted with appeals and avocations, because of the new regulations and rectifications they may meet with.—I think I see the valiant and gallant soldiery either sent to learn the plantation trade abroad; or at home petitioning for a small subsistance, as a reward of their honourable exploits; while their old corps are broken, the common soldiers left to beg, and the youngest English corps kept standing.—I think I see the honest industrious tradesman loaded with new taxes and impositions, disappointed of the equivalents, drinking water in place of ale, eating his saltless pottage, petitioning for encouragement to his manufactures, and answered by counter-petitions.—In short, I think I see the laborious ploughman, with his corn spoiling upon his hands, for want of sale, cursing the day of his birth, dreading the expence of his burial, and uncertain whether to marry or do worse. I think I see the incurable difficulties of the landed-men, fettered under the golden chain of equivalents, their pretty daughters petitioning for want of husbands, and their sons for want of employment.—I think I see our mariners delivering up their ships to their Dutch partners; and what through presses and necessity, earning their bread as underlings in the royal English navy.—But above all, my lord, I think I see our ancient mother Caledonia, like Cæsar, sitting in the midst of our senate, ruefully looking round about her, covering herself with her royal garment, attending the fatal blow, and breathing out her last with an 'Et tu quoque mi fili."

"Are not these, my lord, very afflicting thoughts? and yet they are but the least part suggested to me by these dishonourable Articles. Should not the consideration of these things vivify these dry bones of ours? Should not the memory of our noble predecessors valour and constancy rouse up our drooping spirits? Are our noble predecessors souls got so far into the English cabbage-stock and colliflowers, that we should shew the least inclination that way? Are our eyes so blinded? Are our ears so deafened? Are our hearts so hardened? Are our tongues so faltered? Are our hands so fettered, that in this our day, I say, my lord, that in this our day, we should not mind the things that concern the very being and well-being of our ancient kingdom, before the day be hid from our eyes?

"No, my lord, God forbid! man's extremity is God's opportunity: 'He is a present help in time of need, and a deliverer, and that right early.' Some unforeseen providence will fall out, that may cast the balance; some Joseph or other will say, 'Why do ye strive together, since you are brethren?' None can destroy Scotland, save Scotland itself; hold your hands from the pen, you are secure. Some Judah or other will say, 'Let not our hands be upon the lad, he is our brother.' There will be a Jehovah Jireh, and some ram will be caught in the thicket, when the bloody knife is at our mother's throat. Let us up then, my lord, and let our noble patriots behave themselves like men, and we know not how soon a blessing may come.

"My lord, I wish from my heart, that this my vision prove not as true as my reasons for it are probable: I design not at this time to enter into the merits of any one particular Article; I intend this discourse, as an introduction to what I may afterwards say upon the whole debate, as it falls in before this honourable house; and therefore, in the farther prosecution of what I have to say, I shall insist upon few particulars, very necessary to be understood, before we enter upon the detail of so important a matter.

"I shall therefore, in the first place, endeavour to encourage a free and full deliberation, without animosities and heats: In the next place, I shall endeavour to make an enquiry into the nature and source of the unnatural and dangerous divisions that are now on foot within this isle, with some motives shewing, that it is our interest to lay them aside at this time: Then I shall enquire into the reasons, which have induced the two nations to enter into a Treaty of Union at this time, with some considerations and meditations, with relation to the behaviour of the lords commissioners of the two kingdoms, in the management of this great concern. And lastly, I shall propose a method, by which we shall most distinctly, and without confusion, go through the several Articles of this Treaty, without unnecessary repetitions or loss of time. And all this with all deference, and under the correction of this honourable house.

"My lord chancellor, the greatest honour that was done unto a Roman, was to allow him the glory of a triumph; the greatest and most dishonourable punishment, was that of parricide: he that was guilty of parricide, was beaten with rods upon his naked body, till the blood gushed out of all the veins of his body; then he was sewed up in a leathern sack, called a culeus, with a cock, a viper, and an ape, and thrown headlong into the sea.

"My lord, patricide is a greater crime than parricide, all the world over. In a triumph,

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my lord, when the conqueror was riding in his triumphal chariot, crowned with laurels, adorned with trophies, and applauded with huzzas, there was a monitor appointed to stand behind him, to warn him, not to be high-minded, not puffed up with over-weening thoughts of himself; and to his chariot were tied a whip and a bell, to mind him, that for all his glory and grandeur, he was accountable to the people for his administration, and would be punished as other men, if found guilty.

"The greatest honour amongst us, my lord, is to represent the sovereign's sacred person in parliament; and in one particular it appears to be greater than that of a triumph; because the whole legislative power seems to be wholly entrusted with him: If he give the royal assent to an act of the estates, it becomes a law obligatory upon the subject, though contrary or without any instructions from the sovereign: If he refuse the royal assent to a vote in parliament, it cannot be a law, though he has the sovereign's particular and positive instructions for it.

"His grace the duke of Queensbury, who now represents her majesty in this session of parliament, hath had the honour of that great trust, as often, if not more than any Scotsman ever had: he hath been the favourite of two successive sovereigns; and I cannot but commend his constancy, and perseverance, that, notwithstanding his former difficulties and unsuccessful attempts, and maugre some other specialities not yet determined, that his grace has yet had the resolution to undertake the most unpopular measures last. If his grace succeed in this affair of an Union, and that it prove for the happiness and welfare of the nation, then he justly merits to have a statue of gold erected for himself: but if it shall tend to the entire destruction and abolition of our nation; and that we the nation's trustees wall go into it; then I must say, that a whip and a bell, a cock and a viper, and an ape, are but too small punishments for any such bold unnatural undertaking and complaisance.

"That I may pave a way, my lord, to a full calm, and free reasoning upon this affair, which is of the last consequence unto this nation; I shall mind this honourable house, that we are the successors of our noble predecessors, who founded our monarchy, framed our laws, amended, altered, and corrected them from time to time, as the affairs and circumstances of the nation did require, without the assistance or advice of any foreign power or potentate, and who, during the time of 2000 years, have handed them down to us a free independent nation, with the hazard of their lives and fortunes: shall not we then argue for that which our progenitors have purchased for us at so dear a rate, and with so much immortal honour and glory? God forbid. Shall the hazard of a father unbind the ligaments of a dumb son's tongue; and shall we hold our peace, when our Patria is in danger? I speak this, my lord, that I may encourage every individual member of this house, to speak their mind freely. There are many wise and prudent men amongst us, who think it not worth their while to open their mouths; there are others, who can speak very well, and to good purpose, who shelter themselves under the shameful cloak of silence, from a fear of the frowns of great men and parties. I have observed, my lord, by my experience, the greatest number of speakers in the most trivial affairs; and it will always prove so, while we come not to the right understanding of the oath *de fideli*, whereby we are bound not only to give our vote, but our faithful advice in parliament, as we should answer to God; and in our ancient laws, the representatives of the honourable barons, and the royal boroughs, are termed spokesmen. It lies upon your lordships therefore particularly to take notice of such, whose modesty makes them bashful to speak. Therefore I shall leave it upon you, and conclude this point with a very memorable saying of an honest private gentleman to a great queen, upon occasion of a state project, contrived by an able statesman, and the favourite to a great king, against a peaceful obedient people, because of the diversity of their laws and constitutions. 'If at this time 'thou hold thy peace, salvation shall come 'to the people from another place, but thou 'and thy house shall perish.' I leave the application to each particular member of this house.

"My Lord, I come now to consider our divisions. We are under the happy reign (blessed be God) of the best of queens, who has no evil design against the meanest of her subjects, who loves all her people, and is equally beloved by them again; and yet that under the happy influence of our most excellent queen there should be such divisions and factions, more dangerous and threatening to her dominions, than if we were under an arbitrary government, is most strange and unaccountable. Under an arbitrary prince, all are willing to serve, because all are under a necessity to obey, whether they will or not. He chuses therefore whom he will, without respect to either parties or factions; and if he think fit to take the advices of his councils or parliaments, every man speaks his mind freely, and the prince receives the faithful advice of his people without the mixture of self-designs: if he proves a good prince, the government is easy, if bad, either death or a revolution brings a deliverence: whereas here my lord, there appears no end of our misery, if not prevented in time: factions are now become independent, and have got footing in councils, in parliaments, in treaties, in armies, in incorporations, in families, among kindred, yea man and wife are not free from their political jars.

"It remains therefore, my lord, that I enquire into the nature of these things, and since the names give us not the right idea of the thing, I am afraid I shall have difficulty to make myself well understood.

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"The names generally used to denote the factions, are Whig, and Tory, as obscure as that of Guelfs and Gibelins: yea, my lord, they have different significations, as they are applied to factions in each kingdom; a Whig in England is a heterogeneous creature, in Scotland he is all of a piece; a Tory in England is all of a piece, and a statesman; in Scotland he is quite otherwise, an anti-courtier and anti-statesman.

"A Whig in England appears to be somewhat like Nebuchadnezzar's image, of different metals, different classes, different principles, and different designs: yet take them altogether they are like a piece of fine mixed drugget of different threads, some finer, some coarser, which after all make a comely appearance, and an agreeable suit. Tory is like a piece of loyal home-made English cloth, the true staple of the nation, all of a thread; yet if we look narrowly into it, we shall perceive diversity of colours, which, according to the various situations and positions, make various appearances: sometimes Tory is like the moon in its full, as appeared in the affair of the bill of Occasional Conformity; upon other occasions it appears to be under a cloud, and as if it were eclipsed by a greater body, as it did in the design of calling over the illustrious princess Sophia. However by this we may see their designs are to outshoot Whig in his own bow.

"Whig in Scotland is a true-blue Presbyterian, who, without considering time or power, will venture their all for the kirk: but something less for the state. The greatest difficulty is, how to describe a Scots Tory: of old, when I knew them first, Tory was an honest hearted comradish fellow, who provided he was maintained and protected in his benefices, titles and dignities by the state, he was the less anxious who had the government and management of the church: but now what he is since *jure Divino* came in fashion: and that christianity, and, by consequence, salvation comes to depend upon Episcopal ordination, I profess I know not what to make of him; only this I must say for him, that he endeavours to do by opposition, that which his brother in England endeavours by a more prudent and less scrupulous method.

"Now, my lord, from these divisions, there has got up a kind of aristocracy, something like the famous triumvirate at Rome; they are a kind of undertakers and pragmatic statesmen, who, finding their power and strength great, and answerable to their designs, will make bargains with our gracious sovereign; they will serve her faithfully, but upon their own terms; they must have their own instruments, their own measures; this man must be turned out, and that man put in, and then they will make her the most glorious queen in Europe.

"Where will this end, my lord? Is not her majesty in danger by such a method? Is not the monarchy in danger? Is not the nation's peace and tranquillity in danger? Will a change of parties make the nation more happy? No, my lord, the seed is sown, that is like to afford us a perpetual increase; it's not an annual herb, it takes deep root, it seeds and breeds: and if not timely prevented by her majesty's royal endeavours, will split the whole island in two.

"My lord, I think, considering our present circumstances at this time, the Almighty God has reserved this great work for us. We may bruise this hydra of division, and crush this cockatrice's egg. Our neighbours in England, are not yet fitted for any such thing; they are not under the afflicting hand of Providence, as we are; their circumstances are great and glorious, their treaties are prudently managed, both at home and abroad, their generals brave and valorous, their armies successful and victorious, their trophies and laurels memorable and surprising; their enemies subdued and routed, their strong holds besieged and taken, sieges relieved, marshals killed and taken prisoners, provinces and kingdoms are the results of their victories; their royal navy is the terror of Europe, their trade and commerce extended through the universe, encircling the whole habitable world, and rendering their own capital city the emporium for the whole inhabitants of the earth: and which is yet more than all these things; the subjects freely bestowing their treasure upon their sovereign: and above all, these vast riches, the sinews of war, and without which all the glorious success had proved abortive, these treasures are managed with such faithfulness and nicety, that they answer seasonably all their demands, though at never so great a distance. Upon these considerations, my lord, how hard and difficult a thing will it prove, to persuade our neighbours to a self-denying bill.

"'Tis quite otherwise with us, my lord, we are an obscure, poor people, though formerly of better account, removed to a remote corner of the world, without name, and without alliances; our posts mean and precarious; so that I profess I don't think any one post in the kingdom worth the briguing after, save that of being commissioner to a long session of a factious Scots parliament, with an antedated commission, and that yet renders the rest of the ministers more miserable. What hinders us then, my lord, to lay aside our divisions, to unite cordially and heartily together in our present circumstances, when our all is at stake? Hannibal, my lord, is at our gates, Hannibal is come within our gates, Hannibal is come the length of this table, he is at the foot of this throne, he will demolish this throne; if we take not notice, he'll seize upon these Regalia, he'll take them as our *spolia opima*, and whip us out of this house, never to return again.

"For the love of God then, my lord, for the safety and welfare of our ancient kingdom, whose sad circumstances, I hope, we shall yet convert into prosperity and happiness! we want no means, if we unite; God blessed the

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peace-makers; we want neither men, nor sufficiency of all manner of things necessary, to make a nation happy; all depends upon management, 'Concordia res parvæ crescunt.' I fear not these articles, though they were ten times worse than they are, if we once cordially forgive one another, and that, according to our proverb, Bygones be Bygones, and fair play for time to come. For my part, in the sight of God, and in the presence of this honourable house, I heartily forgive every man, and beg, that they may do the same to me; and I do most humbly propose, that his grace my lord commissioner may appoint an agape, may order a love-feast for this honourable house, that we may lay aside all self-designs, and, after our fasts and humiliations, may have a day of rejoicing and thankfulness, may eat our meat with gladness, and our bread with a merry heart; then shall we sit each man under his own fig-tree, and the voice of the turtle shall be heard in our land, a bird famous for constancy and fidelity.

"My lord, I shall make a pause here, and stop going on farther in my discourse, till I see further, if his grace, my lord commissioner, receive any humble proposals for removing misunderstandings among us, and putting an end to our fatal divisions: upon honour, I have no other design, and I am content to beg the favour upon my bended knees."

(No answer.)

"My lord chancellor, I am sorry that I must pursue the thread of my sad and melancholy story: what remains, I am afraid may prove as afflicting as what I have said; I shall therefore consider the motives which have engaged the two nations to enter upon a Treaty of Union at this time. In general, my lord, I think both of them had in their view to better themselves by the Treaty; but, before I enter upon the particular motives of each nation, I must inform this honourable house, that, since I can remember, the two nations have altered their sentiments upon that affair, even almost to down-right contradiction, they have changed head-bands, as we say; for England, till of late, never thought it worth their pains of treating with us; the good bargain they made at the beginning they resolve to keep, and that which we call an incorporating Union, was not so much as in their thoughts. The first notice they seemed to take of us, was in our affair of Caledonia, when they had most effectually broke off that design, in a manner very well known to the world, and unnecessary to be repeated here; they kept themselves quiet during the time of our complaints upon that head. In which time our sovereign, to satisfy the nation and allay their heats, did condescend to give us some good laws, and amongst others that of personal liberties; but England having declared their succession, and extended their entail, without ever taking notice of us, our gracious sovereign queen Anne, was graciously pleased to give the royal assent to our act of Security, to that of peace and war after the decease of her majesty, and the heirs of her body, and to give us a hedge to all our sacred and civil interests, by declaring it high treason to endeavour the alteration of them, as they were then established. Thereupon did follow the threatening and minatory laws against us by the parliament of England, and the unjust and unequal character of what her majesty had so graciously condescended to in our favours. Now, my lord, whether the desire they had to have us engaged in the same succession with them; or whether they found us, like a free and independent people, breathing after more liberty than what formerly was looked after; or whether they were afraid of our Act of Security, in case of her majesty's decease: which of all these motives has induced them to a treaty, I leave it to themselves. This I must say only, they have made a good bargain this time also.

"For the particular motives that induced us, I think they are obvious to be known: we found, by sad experience, that every man hath advanced in power and riches, as they have done in trade; and at the same time considering, that no where through the world, slaves are found to be rich, though they should be adorned with chains of gold; we thereupon changed our notion of an incorporating Union, to that of a federal one; and, being resolved to take this opportunity to make demands upon them, before we enter into the succession, we were content to empower her majesty to authorize and appoint commissioners to treat with the commissioners of England, with as ample powers as the lords commissioners from England had from their constituents, that we might not appear to have less confidence in her majesty, nor more narrow-heartedness in our act, than our neighbours of England: and thereupon last parliament, after her majesty's gracious letter was read, desiring us to declare the succession in the first place, and afterwards to appoint commissioners to treat, we found it necessary to renew our former resolve, which I shall read to this honourable house:

Resolve presented by the duke of Hamilton last session of parliament.

'That this parliament will not proceed to 'the nomination of a successor, till we have 'had a previous Treaty with England, in rela'tion to our commerce, and other concerns 'with that nation. And further it is resolved, 'that this parliament will proceed to make 'such limitations and conditions of government, 'for the rectification of our constitution, as 'may secure the liberty, religion, and inde'pendency of this kingdom, before they pro'ceed to the said nomination.'

"Now, my lord, the last session of parliament having, before they would enter into any Treaty with England, by a vote of the house passed both an act for limitations, and an act for rectification of our constitution, what mortal man has reason to doubt the design of this Treaty was only federal?

"My lord chancellor, It remains now, that

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we consider the behaviour of the lords commissioners at the opening of this Treaty: And, before I enter upon that, allow me to make this meditation: that, if our posterity, after we are all dead and gone, shall find themselves under an ill-made bargain, and shall have recourse unto our records, and see who have been the managers of that Treaty, by which they have suffered so much: When they read the names, they will certainly conclude, and say, Ah! our nation has been reduced to the last extremity, at the time of this Treaty; all our great chieftains, all our great peers and considerable men, who used formerly to defend the rights and liberties of the nation, have been all killed and dead in the bed of honour, before ever the nation was necessitate to condescend to such mean and contemptible terms: Where are the names of the chief men, of the noble families of Stuarts, Hamiltons, Grahams, Campbels, Gordons, Johnstons, Humes, Murrays, Kers, &c.? Where are the two great officers of the crown, the constables and marshals of Scotland? They have certainly all been extinguished, and now we are slaves for ever.

"Whereas the English records will make their posterity reverence the memory of the honourable names, who have brought under their fierce, warlike and troublesome neighbours, who had struggled so long for independency, shed the best blood of their nation, and reduced a considerable part of their country, to become waste and desolate.

"I am informed, my lord, that our commissioners did indeed frankly tell the lords-commissioners for England, that the inclinations of the people of Scotland were much altered of late, in relation to an incorporating Union; and that therefore, since the entail was to end with her majesty's life (whom God long preserve) it was proper to begin the Treaty upon the foot of the Treaty of 1604 year of God; the time when we came first under one sovereign: But this the English commissioners would not agree to; and our commissioners, that they might not seem obstinate, were willing to treat and conclude in the terms laid before this honourable house, and subjected to their determination.

"If the lords-commissioners for England had been as civil and complaisant, they should certainly have finished a federal Treaty likewise, that both nations might have the choice, which of them to have gone into, as they thought fit; but they would hear of nothing but an entire and compleat Union, a name which comprehends an Union, either by incorporation, surrender, or conquest; whereas our commissioners thought of nothing but a fair, equal, incorporating Union. Whether this be so, or no, I leave it to every man's judgment; but as for myself, I must beg liberty to think it no such thing: for I take an incorporating Union to be, where there is a change both in the material and formal points of government, as if two pieces of metal were melted down into one mass, it can neither be said to retain its former form or substance as it did before the mixture. But now, when I consider this Treaty, as it hath been explained and spoke to, before us this three weeks by past, I see the English constitution remaining firm, the same two houses of parliament, the same taxes, the same customs, the same excises, the same trading companies, the same municipal laws and courts of judicature; and all ours either subject to regulations or annihilations, only we have the honour to pay their old debts, and to have some few persons present, for witnesses to the validity of the deed, when they are pleased to contract more.

"Good God! What, is this an entire surrender!

"My lord, I find my heart so full of grief and indignation, that I must beg pardon not to finish the last part of my discourse, that I may drop a tear, as the prelude to so sad a story.

After having sat down, and some discourses by other members intervening, he continued his discourse thus:

"My lord chancellor; What I am now to say, relates to the method of proceeding in this weighty affair: I hear it proposed by a noble member of the other side, that we should proceed in the same order as the lords commissioners-treaters did. In my humble opinion, my lord, it is neither the natural method, nor can it be done without great confusion and repetition. To say, you'll agree to the Union of the two kingdoms, before you agree in the terms upon which they are to be united, seems like driving the plough before the oxen. The articles, which narrate the condition seem to be the premises upon which the conclusion is inferred; and, according as they are found good or bad, the success will follow. When a man is married to a fortune in England, as they call it, I suppose he is satisfied with the thing before he determines himself to marry; and the proposal I have heard of agreeing to the first article, with a proviso, That if the rest of the articles shall be found satisfactory, and no otherwise, is of a piece with the rest, and looks like beating the air, and no ways consistent with fair and square dealings. Besides, my lord, if we were to go upon the first article; are not all the rest of the articles, besides many others not contained in the articles, valid arguments either *pro* or *con*, against concluding or not concluding the first article? And no vote in this house can hinder a man from making use of what arguments he thinks fit. Moreover, the searching the records, and the revising the statute-books, comparing the book of rates, customs, excise, taxes, of both nations one with another, must all be previously considered ere we determine ourselves in one single article; add to this, that the prohibitory clause with relation to the trade of both nations, must be adjusted, lest like Æsop's dog, we lose the old, in grasping at the new; the

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state of the English companies must also be exposed, how far we shall have liberty into them, and what advantage we may propose to ourselves, by trading to these places where they are secured; and above all, my lord, the security of our national church, and all that's dear unto us, must be previously established to us, if practicable, before we conclude the first article.

"Therefore, my lord, though my particular opinion be, though we had a cart-blanch from England; yet the delivering up of our sovereignty, gives back with one hand, what we receive with the other, and that there can be no security without the guarantee of a distinct independency betwixt the parties treating: Yet, my lord, for further satisfaction to this honourable house, that every member may fully satisfy himself, I humbly propose, that, passing by the first three articles, which appear to be much of a piece, we begin the fourth article of the treaty; and if I be seconded in this, I desire it may be put to the question."

This speech, the reader may see, was pointed directly against the Union; and in the first part of it argues against the whole, in the last against the parts; but concludes to move against the immediate proceedings.—The first speech was from a person no less capable in the matter of the Treaty, and that had been a commissioner in the Treaty at London; the speeches are directly opposite, and are left thus upon record to argue against one another.

The time had been taken up with their length, and the house, as well as the nation, was, at this time, in an unusual ferment, so not many replies were made. Mr. Seton, who made the first speech, stood up to answer the lord Belhaven: but, as he had already spoken, the orders of the House, viz. "That the same member could not speak twice in the same cause," were urged against his speaking, and the earl of Marchmont standing up to speak at the same time, the lord chancellor gave place to him; who indeed made a very short return to so long a speech, and which answer occasioned some laughter in the house: The earl of Marchmont's speech was to this purpose, viz. "He had heard a long speech, and a very terrible one, but he was of opinion, it required a short answer, which he gave in these words, "Behold he dreamed, but lo! when he awoke, he found it was a dream." This answer, some said, was as satisfactory to the members, who understood the design of that speech, as if it had been answered vision by vision. After these two speeches, several members spoke *pro* and *con*; but the debate, in close of the day, turned so warm, that, at the desire of the House, it was adjourned to the next sederunt."

Resolve of the Marquis of Annandale.] Nov. 4. The first Article of the Union was again read, and after some further debate upon it, a Resolve was offered, and given in to the house by the marquis of Annandale, as follows:

"Whereas it evidently appears, since the printing, publishing, and considering of the articles of the Treaty now before this House, this nation seems generally averse to this incorporating Union, in the terms now before us, as subversive of the sovereignty, fundamental constitution, and claim of right of this kingdom, as now by law established.—And seeing it is too evident, that if any Union were agreed to in these terms by this parliament, and accepted of in the parliament of England, it would in no sort answer the peaceable and friendly ends proposed by an Union, but would, on the contrary, create such dismal distractions and animosities amongst ourselves, and such jealousies and mistakes betwixt us and our neighbours, as would involve these nations in fatal breaches and confusions.—Therefore resolved, 'That we are willing to 'enter into such an Union with our neighbours 'of England, as shall unite us entirely, and 'after the most strict manner, in all their and 'our interests or successions, wars, alliances, 'and trade, reserving to us the sovereignty and 'independency of the crown and monarchy, 'and the ancient privileges and immunities of 'the kingdom, and the constitution and frame 'of the government both of church and state, 'as they stand now, established by our fundamental constitution, by our Claim of Right, 'and by the laws following thereupon. Or, 'resolved, that we will proceed to settle the 'same successions with England, upon such 'conditions and regulations of government 'within ourselves, as shall effectually secure 'the sovereignty and independency of this 'crown and kingdom, and the indissolvable society of the same, with the fundamental 'rights and constitutions of the government 'both of our church and state, as the same 'stands established by the Claim of Right, 'and other laws and statutes of this kingdom.'

Duke of Athol's Protestation against the Union.] Which being read and debated, the vote was stated, approve of the first article of Union or not: but before the vote, the Duke of Athol gave the following protestation:

"I John duke of Athol, protest for myself, and all others, who shall adhere to this my protestation, that an incorporating Union of the crown of Scotland with the crown of England, and that both nations should be represented by one and the same parliament, as contained in the articles of the Treaty of Union, is contrary to the honour, interest, fundamental laws and constitution of this kingdom, the birth-right of the peers, the rights and privileges of the barons and boroughs, and act 130 parl. 8 J. 6, by which it is ordained, that none of the lieges presume or take upon them, to impugn the dignity and authority of the three estates of parliament, or to seek or procure the innovation

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or diminution of the power and authority of the said three estates under the pain of treason: and is contrary to the Claim of Right, property, and liberty of the subjects; and the third act of her majesty's parliament 1703, by which it is declared high-treason in any of the subjects of this kingdom, to quarrel or impugn, or endeavour by writing, malicious and advised speaking, or other open act or deed, to alter or innovate the Claim of Right, or any Article thereof; and therefore do desire, that this my protestation be marked in the records of parliament."

First Article of the Union approved.] The same day, a note was stated in these terms, "Approve of the first Article of the Union, in the terms of the motion mentioned in the preceding day's minutes, viz. that if the other Articles of Union be not adjusted by the parliament then the agreeing to, and approving of the first, shall be of no effect; and that immediately after the said first Article, the parliament, will proceed to an act for the security of the doctrine, discipline, worship and government of the church, as by law established within this kingdom:" and it was carried, approve in the terms of the above motion.

Bill for the Security of the Scotch Church.] The act for the Security of the Church, which was under consideration of the parliament on the 9th, ran thus:

"Our sovereign lady and the estates of parliament considering, that by the late act of parliament, for a Treaty with England for an Union of both kingdoms, it is provided that the commissioners for that Treaty should not treat of, or concerning any alteration of the worship, discipline and government of the Church of this kingdom, as now by law established; which Treaty being now reported to the parliament, and it being reasonable and necessary that the true Protestant religion, as presently professed within this kingdom, with the worship, discipline and government of the Church, should be effectually and unalterably secured; therefore her majesty, with advice and consent of the said estates of parliament, doth hereby establish and confirm the said true Protestant religion, and the worship, discipline and government of this Church, to continue without any alteration to the people of this land, in all succeding generations: and more especially her majesty, with advice and consent aforesaid, ratifies, approves, and for ever confirms the 5th act of the 1st parl. W. and M. entitled, An act for ratifying and confirming the confession of faith, and settling Presbyterian Church government, with the hail other acts of parliament relating thereto, in prosecution of the Declaration of the Estates of this kingdom, containing the Claim of Right, bearing date the 11th of April, 1689. And her Majesty, with advice and consent aforesaid, expressly provides and declares, that the foresaid true Protestant religion, contained in the above-mentioned confession of faith, with the form and purity of worship presently in use within this church, and its Presbyterian Church-government and discipline, that is to say, the government of the Church by Kirk-sessions, Presbyteries, provincial synods, and general assemblies, all established by the foresaid acts of parliament, pursuant to the Claim of Right, shall remain and continue unalterable; and that the said Presbyterian government shall be the only government of the Church within the kingdom of Scotland.

"And further, for the great security of the foresaid Protestant religion, and of the worship, discipline and government of the Church as above established, her majesty, with advice and consent foresaid, statutes and ordains, that, in all time coming, no professors, principals, regents, masters, or others bearing office in any university, college, or school within this kingdom, be capable, or be admitted or allowed to continue in the exercise of the said functions, but such as shall own and acknowledge the civil government, in manner prescribed by the acts of parliament. As also, that before, or at their admissions, they do, and shall acknowledge and profess, and shall subscribe to the foresaid confession of faith, as the confession of their faith, and that they will practise and conform themselves to the worship presently in use in this Church, and submit themselves to the government and discipline thereof, and never endeavour, directly or indirectly, the prejudice or subversion of the same, and that before the respective Presbyters of their bounds, by whatsoever gift, presentation or provision, they may be thereto provided.

"And further, her majesty, with advice aforesaid, expressly declares and statutes, that none of the subjects of this kingdom shall be liable to, but all and every one of them for ever free of any oath, test, or subscription within this kingdom, contrary to, or inconsistent with, the foresaid true Protestant Religion, and Presbyterian Church government, worship and discipline as above established, and that the same, within the bounds of this Church and kingdom, shall never be imposed upon, or required of them in any sort. And lastly, that after the decease of her present majesty (whom God long preserve) the sovereign succeeding to her in the royal government of this kingdom, shall in all time coming, at his or her accession to the crown, swear and subscribe, that they shall maintain and preserve the foresaid settlement of the true Protestant religion, with the government, worship and discipline of this Church as above established, inviolably. And it is hereby statuted and ordained, that this act of parliament, with the establishment therein contained, shall be held and observed, in all time coming, as a fundamental and essential condition of any Treaty, or Union to be concluded betwixt the two kingdoms, without any alteration thereof, or derogation thereto in any sort for ever. As also, that this act of parliament, and settlement therein contained, shall be inserted and repeated, in any act of parliament that shall pass for agreeing and con-

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cluding the foresaid Treaty, or Union betwixt the two kingdoms, and that the same shall be therein expressly declared, to be a fundamental and essential condition of the said Treaty or Union in all time coming."

Further consideration of the Act for the Security of the Kirk.] Nov. 12. The parliament proceeded to the further consideration of the Act for Security of the Kirk, &c. within that kingdom: and the fourth clause thereof being again read, it was moved, that a clause should be added in these terms: 'and that they shall be capable of any office, civil or military, and to receive any grant or gift, and to have command, or place of trust, from, and under the sovereign, within any part of Great Britain.' And after debate thereon, it was put to the vote, add or not; and it was carried not, and the clause, as it stood, agreed to. And then the third clause of the act was read; and being amended, was agreed to. Whereupon the whole act was again read, as also the representation of the commission of the general assembly; and a vote stated, approve of the act or not; but before voting, the lord Belhaven gave in a protestation in these terms; 'That he did protest in his own, and in name of all them that should adhere to him, that this act was no valid security to the church, in case of an incorporating Union; and that the church could have no real and solid security by any manner of Union, by which the Claim of Right is unhinged, our parliament incorporated, and our distinct sovereignty and independency entirely abolished;' which being read, he took instruments thereon, and adhered thereunto.

Then the vote was put, Approve or not, and it was carried Approve: and it was carried on the 14th, that the second Article of the Union should have the preference, and be considered before any of those relating to trade, taxes, &c. But notice should have been taken before, that when on the 12th the clause was offered by my Lord Belhaven, for exempting Scots men from the sacramental test through all the dominions of Britain, those who were against the clause said it was a thing out of their power, and not reasonable to suppose that England would grant. To which it was replied by those of the other side, that the design of an Union was equality; but this was the greatest inequality imaginable; for the English were free to possess places in Scotland without any such imposition, but they were excluded from places in England without taking the said Test; and that though the English thought the Test a good security for their Church, it was not reasonable, that they being a part of the same united kingdom, and obliged to maintain the Presbyterian government there, should therefore be excluded from the prince's favour in any part of the united kingdom. However, the clause was thrown out by 39 votes; and then the other clauses being adjusted, the act for the security of the Church passed by a great majority, many of the cavaliers not thinking themselves concerned to vote in the matter. The duke of Hamilton, the duke of Athol, marquis of Annandale, earls of Errol, Marischal, Wigton, and others adhered to the lord Belhaven's protestation, that the act was no sufficient security to the church.

The representation of the commission of the general assembly, representing the increase of popery, profanity, &c, and craving the same might be restrained, and that the succession to the crown might be established in the protestant line, was read and remitted to the committee for calculating the equivalent, to do therein as they found just.

The Second Article read.] Then the second Article was again read, and it was moved, That the parliament should proceed to settle the Succession upon Regulations and Limitations, in the terms of the resolve mentioned in the minutes the 4th instant, and not in the terms of the second Article of the Union. Moved also to address her majesty, and to lay before her the condition of the nation, and the aversion in many persons to an incorporating Union; and to acquaint her majesty of their willingness to settle the Succession in the protestant line, upon limitations; and in order thereunto, that some recess be granted. And after some debate on those motions, a vote was proposed, Approve the second Article of Union in the terms of the preliminary motion, or not; and after some further debate, there was a second state offered, address or not. Then it was put to the vote, whether the first or second should be the state of the vote, and it carried the first.

But it being moved, that some further reasoning should be allowed before the vote, after some debate it was agreed, that the English acts of parliament in the second article of Union be read, and that immediately after a vote should be stated, proceed to call the vote, or delay. And accordingly the said English acts of parliament were read, and thereupon the vote was stated, proceed to call the vote for approving the second article, or delay, and it was carried proceed. Then the vote was put, approve the second article in the terms of the preliminary motion yea or no.

Earl Marischal's Protest against the second Article of the Union.] But before voting, the earl Marischal gave in the following Protest, whereby he did protest for himself, and all those who should adhere to this Protestation, "That no person can be designed a successor to the crown of this realm, after the decease of her majesty (whom God long preserve) and failing heirs of her body, who is successor to the crown of England, unless that in this present session of parliament, or any other session of this or any ensuing parliament, during her majesty's reign, there be such conditions of government settled and enacted, as may secure the honour and sovereignty of this crown and kingdom, the freedom, frequency and power of parliament, the religion, liberty and trade of

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the nation, from English or any foreign influence; which being read, he took instruments thereon."

The Second Article carried.] And it was agreed, that the list of the members shall be printed as they vote, Approve or not, and they who adhere to the Protest should be marked. Then the vote was put, 'Approve or not,' and it was carried Approve.

Lord Belhaven's Speech thereon.] Upon this occasion, the lord Belhaven spoke thus:

"My Lord Chancellor; Your lordship may remember the last day, when we had under consideration, whether to proceed to the fourth or second article, that I did witness my concern and resentment, to find so many honourable and worthy members of this house so forward to finish the demands of England in this Treaty, without taking notice of any one article that could be properly said to relate to the demands of Scotland.—Now that we are entered upon the second article, I desire to be resolved in one question: what are the motives that should engage us to take England's succession upon their own terms? is it not strange that no answer should be given to this question, save that, when you come to consider the rest of the articles, you shall be satisfied on that demand. This is a new way of arguing, my lord; a method without precedent, ranversing nature, and looks more like design that fair dealing. I profess I think the huge and prodigious rains that we have had of late, have either drowned out, or found out another channel for reasoning, than what was formerly: for by what I can see by this new method, the agreeing to the first article shall be found a sufficient reason why we should agree to the second, and the agreeing to the second for the third, and so for all. —If there was ever such a farce acted; if ever reason was Hudibrased, this is the time: consult all the treaties since the beginning of the world to this day, and if you can find any one precedent, I shall yield the cause.—I shall instance, my lord, one for all, and that is, the first and worst treaty that ever was set on foot for mankind; and yet, I am sorry to say it, there appears more ingenuity in it than in our procedure. When the serpent did deceive our mother Eve, he proposed three advantages before he presumed to advise her to eat the forbidden fruit; the first was taken from the sight, the second from the taste, and the third from the advantage following thereupon. That from the sight was enforced by a 'Behold, how lovely and comely a thing it is! it is pleasant to the eye.' That from the taste, from a persuasion that it was good for nourishment; 'It is good for food.' That from the advantage, : It will make you wise, ye shall be as the gods; therefore, upon all these considerations, eat.'—Allow me, my lord, to run the parallel of this with relation to our procedure in this Treaty — Upon the first account that our nation had of the Treaty's being finished betwixt the two nations, people appeared all generally very well satisfied, as a thing that would tend to the removal of all jealousies, and the settling a good understanding betwixt the two kingdoms: but so soon as the articles of the treaty appeared in print, the very sight of them made such a change as is almost inconceivable; they were so far from being pleasant to the eye, my lord, that the nation appears to abhor them.—One would think, my lord, that it had been the interest of those who are satisfied with the thing, to have gone immediately into the merits of these particular articles which relate to Scotland, and to have said, Gentlemen, be not affrighted with their ugly shape, they are better than they are bonny; come taste, come, make a narrow search and inquiry; they are good for Scotland; the wholesomest food that a decaying nation can take: you shall find the advantages, you shall find a change of condition, you shall become rich immediately; you shall be like the English, the most flourishing and the richest people of the universe.—But our procedure, my lord, hath been very far from the prudence of the serpent; for all our arguments have run upon this blunt topic, eat, swallow down this incorporating Union; though it please neither eye nor taste, it must go over: you must believe your physicians, and we shall consider the reasons for it afterwards.—I wish, my lord, that our loss be not in some small manner proportionable to that of our first parents; they thought to have been incorporate with the gods: but in place of that, they were justly expelled paradise, lost their sovereignty over the creatures, and were forced to earn their bread with the sweat of their brows.—My Lord Chancellor, I have heard a proposal made from the other side by the marquis of Annandale; that, in place of agreeing to this second article, wherein the succession is to be declared, as a consequence of our being united to England in one kingdom, we should immediately go to intail our crown upon the illustrious family of Hanover, upon such conditions and limitations as are in our own power to make, for the security of our sacred and civil concerns. I think this is the import of what his lordship gave in, by a resolve formerly, and hath told this honourable house, that he thinks he acts consequentially to his former declared principles, and that this is now the only measure which can settle and secure the peace and quiet of this nation, and fix a firm security for the Protestant interest, and a perfect understanding betwixt the two nations.—I have also heard a discourse by his grace the duke of Hamilton, shewing, that ever since his grace had the honour to be a member of this honourable house, he had made it his business to serve the sovereign and his nation faithfully and honestly, without any by-ends, by-views, or self interests, that before the affair of the succession was tabled in Scotland, he had endeavoured to promote the interest of his nation, by good laws, and by the best counsels he was capable to give, for rectifying things amiss, and advancing the solid interest of his country; that since the affair of the succession came to be considered, he

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could never give himself the liberty to believe, but that previous to any settlement, we ought to have had such condescensions with relation to trade and commerce from England, as might retrieve the losses the nation hath sustained from them ever since the Union of the two crowns under one sovereign; and that thereupon, to prevent all faction and party in the treating of an affair of such importance, he had freely left the nomination of the lords commissioners to her majesty, and wishes the choice had been answerable to his design; but none can accuse him as bargaining for himself, since he has no reason to complain of the breach of any stipulation upon that head; that now having considered the articles of this treaty lying before us, and the fatal consequences that may follow upon the finishing of an incorporating Union with England, with the general aversation that appears by the addresses from the several shires of the kingdom, and particularly from the address of the commission of the general assembly, and of the royal boroughs of Scotland, he finds it necessary to alter his thoughts of that matter; that he was none of those who loved to keep things loose and in confusion; he had an estate in both kingdoms, and therefore it was not to be supposed he would make use only of a Treaty to throw out the succession one time, and of the succession to throw off the treaty another time. Therefore, to prevent worse consequences, he is content, that in this parliament, the succession be declared and settled upon the illustrious princess Sophia Electoress of Hanover, and the heirs of her body, upon such conditions and limitations as shall be found necessary by this parliament, to secure our civil rights and liberties, the independency and sovereignty of the nation, and the Presbyterian government of this church, as it is founded upon the claim of right, and established by law, and whose privileges and settlement he resolves to support with the utmost of his power.—And therefore his grace thinks himself obliged, with all humility in this present juncture of affairs, to address himself particularly to his grace my lord commissioner, and to beg of his grace, that he would be pleased to acquaint her majesty with the true state of the nation, and with the proposal made for allaying the present ferment, and settling a solid peace and good understanding betwixt her two kingdoms, and that a small recess may be granted in the mean time, till her majesty's gracious answer come, which, with all submission, he conceives will prevent these bad consequences that the farther pushing on of this Treaty may occasion. I think, my lord, this is materially what his grace said, though not so fully nor so well expressed.—Now, my lord, it remains that I give account of myself, and of my own opinion of this affair: all who know me, my lord, know that I have been from the beginning on a revolution foot; I ventured my life and fortune with the first, and I have ever since acted consequentially to my principle. It is true, I was never a good courtier under any reign, because I had a rule for my obedience, and never made obedience my rule; my reputation was never stained, nor had I ever any reproach laid upon me, save when I was brought in, head over ears, in a Scots plot, a plot, very well known, designed to blast the reputation of a set of people the best affected to the sovereign, and to the true interest of their nation, that ever Scotland bred. What my opinion was with relation to the succession is very well known also: I looked upon limitations with another eye than some others were pleased to do; I was far from treating them in ridicule; because, as all human affairs, they are liable to alterations, and might be taken off: that argument proves too much, and consequently proves nothing at all. Should a man refuse to have a good estate settled upon him, because he may squander it away, and become bankrupt? Must a good law be refused, because it may afterwards be repealed? no, my lord. Where the power is lodged in ourselves, we have all human security imaginable for the thing; it is not so, where the power is lodged in others: therefore I shall alwise chuse that security which depends upon myself, preferable to any other.—This, my lord, hath confirmed me, that limitations of our own making is the best security; though I alwise thought them not the full of what we merited for the going into the English succession. For considering the injuries that we have received from them, we ought to have reparation upon this emergent: and I think, without incorporating with them, they might have given us some small encouragement in our trade with them which would have been profitable unto us, and no manner of way prejudicial unto them, as I can clearly demonstrate if there be occasion for it. But since this is not the proper place nor season for such proposals, I shall go in with the proposal made by the marquis of Annandale, and fortified by his grace the duke of Hamilton; because I think it is the best that we can make of it at this time, the fittest measure to prevent civil wars, allay the ferment of the nation, and far preferable to this incorporating Union, which, as to us, in all its clauses appears to be most unreasonable."

Proceedings on the third Article.] The third Article being read on the 18th, it was moved, That the agreeing to the third Article of the Treaty, in relation to the parliament of Great Britain, should not be binding, nor have any effect, unless terms and conditions of an Union of the two kingdoms, and particularly the constitution of the said parliament, be finally adjusted and concluded, and an act pass thereupon in the parliament, and that the said terms and conditions be also agreed to, and ratified by an act of the parliament of England, the constitution of the parliament of Great Britain being left entire, until the parliament come upon the twenty-second article. It was moved also to proceed to the consideration of the fourth, and other articles of Union, before the third; and after reasoning it was

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put to the vote, Proceed to the consideration of the third article in the terms of the said motion, or Proceed to the fourth article, and carried, Proceed to the third.

Accordingly the parliament proceeded to the consideration of the third Article, and after long debate upon it, a vote was stated, Approve of the third Article in the terms of the said motion or not.

Marquis of Annandale's Protest.] But before voting, the marquis of Annandale gave a Protest, and craved that the narrative of the resolve, inserted in the Minutes of the 4th instant, might be prefixed thereunto; which Narrative and Protest is as follows:

"Whereas it evidently appears, since the printing and considering the articles of Treaty now before this House, this nation seems generally averse to this incorporating Union, in the terms now before us, as subversive of the sovereignty, fundamental constitution, and claim of right of this kingdom, and as threatening ruin of this church as by law established: and since it is plain, that if an Union were agreed to in these terms by the parliament and accepted of by the parliament of England, it would in no sort answer the peaceable and friendly ends proposed by an Union, but would, on the contrary, create such dismal distractions and animosities amongst ourselves, and such jealousies and mistakes betwixt us and our neighbours, as would involve these nations in fatal breaches and confusions.

"Therefore I do protest for myself, and in name of those who shall adhere to this my protestation, that an incorporating Union of the crown and kingdom of Scotland, with the crown and kingdom of England, and that both nations be represented by one and the same parliament, as contained in the articles of the Treaty of Union, and contrary to the honour, interest, fundamental laws and constitutions of this kingdom, is a giving up the sovereignty, the birthright of the peers, the rights and privileges of the barons and burghs; and is contrary to the claim of right, property, and liberty of the subjects, and 3d act of her majesty's parliament in 1703. By which it is declared high treason in any of the subjects of this kingdom, to quarrel, or endeavour by writing, malicious and advised speaking, or other open act or deed, to alter or innovate the claim of right or any article thereof: and do protest, that this shall not prejudice the being of future Stotch parliaments, and conventions within the kingdom of Scotland, in no time coming.

Third Article approved.] Then the Vote was put, Approve of the IIId article in the terms of the motion, and carried, Approve, by 30.

Mr. Seton's Speech thereon.] During the debates on the third Article, Mr. Seton, junior, of Pitmedden, made this speech;

"My lord chancellor; Having heard with much attention the third article debated, I find it liable, with the other articles of this Treaty, to be put in a false or true light by the speakers to it, in proportion to those notions they have of the nature of this Union; what I am to say concerning it, shall be to remove some objections, which, in my opinion, is the proper method to smooth the way for approving it.—The principal objections are, That the representatives for shires and burghs cannot legally approve this article, without the assent of their constituents; and that by the approbation of it, the sovereignty and independency of this kingdom will be surrendered to England.—My lord, to give a distinct and convincing answer to the first objection, let us look a little to the nature of our constitution of government.—Our government is not a Polish aristocracy, founded on 'pacta conventa,' whereby all the gentry are empowered in their particular meetings, to prescribe rules to their representatives in a geneaal diet.—Our government is not a common democracy, whereby every subject of Scotland may claim a vote in the legislature. Our government is, and has been many ages past, a limited monarchy, wherein the sovereign and representative are the only judges of every thing which does contribute to the happiness of the body politic, and from whom no appeal can legally be made; and this description is agreeable to reason, to our law, and to our history.—Reason teaches us, that anarchy is destructive to mankind, and that no society of people can be well governed without a supreme power, whose proceedings are only alterable by itself; Grotius says, (Lib. 1. cap. 3. sect. 7.) 'that we call the supreme power, whose acts are not subject to the power of another.—Our law is positive, that this supreme court is subject to no human authority, act 130. P. 8. J. 6.; and we learn from our history, that the greatest alterations have been made in the constitution of our government, without consulting the people; out of which I humbly offer a few examples: In the reign of Kenneth 3 the monarchy that originally was elective, became hereditary; in the reign of James 6 the representation of the clergy in parliament was restored: In the reign of Charles 2 the prerogative was exalted above its natural level; and in the year 1688, the king was dethroned, and the clergy expelled this house.—My lord, I have heard asserted, that there are fundamentals of government which cannot be altered by this house, without the consent of every Scotsman; but where were these stipulated? where are they recorded? were these made by our forefathers at the first institution of their government, and have all succeeding parliaments sworn to their observance? These questions, methinks, deserve our consideration, before it be asserted what is an unalterable fundamental by this house.—As to the arguments of sir George Mackenzie, and other eminent lawyers, brought upon the stage to support this notion of fundamentals, I think they require no particular answer, because any member who understands the nature of government may see clearly, that

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these arguments are founded on Roman laws, calculated for people as members of private societies, and not for perpetual rules to the supreme power of any nation.—In fine, I believe there are no fundamentals of government in any nation, which are not alterable by its supreme power, when the circumstances of times require; and whoever is acquainted with history, may learn, that there are no people at present in Europe, which in different ages have not suffered variety of changes in government. I do, indeed, acknowledge, there are fundamentals in nature, to wit, liberty and property, which this House can never destroy, without exceeding its utmost bounds of power, that are always limited to the public good; nevertheless, this honourable House is only capable to judge of the most proper means of securing these fundamentals: and for my part, I sincerely believe that no judicious man will say, there is the least danger of our liberty and property by an Union of parliaments, when he reflects that the people of England have been in all ages noble assertors of the rights of the subject; have spent much blood and treasure in defence of the liberties of their neighbours, and that after this Union, encroachments on the rights of the subjects of any part of Great Britain, must endanger the liberty of the whole.—My lord, I come now to the next objection, that by the approbation of this article, we surrender the sovereignty and independency of this kingdom. —These words, I acknowledge, are very long, and may sound harmoniously in the ears of the populace: for my part, I would be sorry just now to have occasion to say, that in fact our supremacy and independency were surrendered the day king James got possession of the English throne, if at the same time I could not affirm, that these are again restored to us by this Treaty, which was managed with a decorum and equality that became two independent and distinct nations, and not after such a clandestine manner as was used by queen Mary and the French, the 4th of April, 1554, on which day our sovereignty was indeed surrendered, as may be seen in the Recueil de Traitez, &c. p. 510.—But to put this question above controversy, I conceive two ways only whereby a free nation loses its sovereignty and independency, which are conquest, and a voluntary surrender of its rights to another nation without any reservation.—I am sure no person in right judgment will alledge, that this intended Union is a conquest: nor can it be called a surrender, seeing the Treaty contains certain and distinct reservations to both kingdoms: nor can I comprehend how either of two nations, by an entire Union, surrenders its privileges: on the contrair, I agree with the learned Grotius (Lib. 2. cap. 9. sect. 9.) whose opinion is, that the rights and privileges of two distinct nations united, are consolidated into one, by a mutual communication of them. —Another objection, my lord, has been moved against this article, which belongs more properly to the 22d article, and that's concerning the number of the representatives from Scotland, to a parliament of Great Britain. This objection I'll endeavour to answer in as few words as the nature of it will allow.—If both nations are to be represented by one parliament, there must be members from both nations, and their numbers must be adjusted by some rule, which can be no other than that fundamental in the Union of all societies, whereby suffrages are computed, to wit, the proportion each society contributes for the support of the whole. Now, the Union of Scotland and England is but the union of two great societies of people into one body politic; so that we have nothing to direct our forming a true notion about the number of the representative agreed to by this treaty on the part of Scotland, but the proportion we are able to contribute for the support of the government of Great Britain; and that has respect to the numbers of our people; to the extent of our taxes; or to an arithmetical proportion betwixt these and those of England; all which being duly considered, I may be bold to affirm, that the representative agreed to by the commissioners for Scotland, is more than falls to our share.—Several authors who have wrote about the nature of society, or the Union of two or more societies, agree to this fundamental; and Grotius (L. 2. c. 5. sect. 22.) has two examples out of Strabo relating to it. One is, when Lybica united with three neighbouring cities, it was stipulated, that each of the three was to have one voice, but Lybica two; because it contributed much more to the common benefit than any of the rest. The other example is, that there were twenty-three cities in Licia united, whereof some had three voices, some two, and some but one.—My lord, by the representative of sixteen for the nobility, there is no greater hardship put upon them, than was put upon the small barons in the reign of king James 1. who then were of the same state with the nobility, and submitted to the law for conveniency.—By the representative of forty-five for the commons, no prejudice is done to the state of barons in respect of representation; for, if they be represented from every shire, or at least from the most considerable shires, it is of no import, whether every shire be represented by one or more; and as to the state of boroughs, I'll presume to say, that the retrenchment of their representation is a piece of justice done to this nation, if property or taxes be the rule of representation.—My lord, so far have I endeavoured to answer the material objections against this article, not out of any prospect to convince the members against this Union, as to fortify the judgments of those for it; and I wish heartily that the constituents for shires and burghs may have a true confidence in their representatives, while they are accomplishing this great and noble work of an Union of both kingdoms, especially considering, that they are bound by oath to give their best advices and suffrages; that they

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were chosen by themselves in a free election; that they have their families and estates among them; that the same liberty, property, and religion, are common to them both; and that the good or bad consequences of this Union, must equally affect representatives and constituents."*

The Lord High Commissioner insulted by the Mob.] It was late before the house rose, and the mob was rude to the Lord High Commissioner; for in his return, though the horse-guards were round his grace's coach, and some of the foot grenadiers betwixt the coach, and horse guards, the mob threw stones from several corners, some of which fell into his coach, and the mob pressed so hard upon the coaches that they were forced to drive full speed down the streets; and one of his grace's pages falling behind, was very ill treated by the populace. Upon which, on the 19th, the Lord Chancellor acquainted the parliament, that the Lord High Commissioner was insulted the night before by a number of mean people with stones. The parliament remitted it to the committee for examining the equivalent, to indemnify and give reward for discovery, to seize and imprison any whom they suspected, and to report their information, and their opinion what measures might be proper for preventing the like. The parliament did likewise recommend to the Lord High constable, to prosecute those imprisoned for a former tumult, and that the magistrates of Edinburgh furnish what proof against them they could.

On the 19th it was moved, That the parliament proceed to the fourth Article of Union: then the duke of Athol moved, That before they proceed to the said Article, a clause be added to the third Article, That the said parliament of Great Britain should meet and sit once in three years at least, in that part of Great Britain, now called Scotland: and after debate, the consideration of it was delayed till the parliament should come to the XXIId Article. Then the IVth Article of the Union was read; upon which the duke of Hamilton made a motion, that all the regulations and restrictions of the English trade, the privileges of their companies, &c. should be laid before the house; upon which the debate was by consent adjourned till next Sederunt.

Fourth Article approved of.] The IVth Article of Union was again read: whereupon it was moved, to take the several branches of trade to be communicated, into consideration, that it might thereby appear how far the communication of trade would be advantageous to them: and after reasoning thereupon, the vote was started, Approve of the IVth Article, reserving the consideration of the several branches of trade, till the parliament concert the subsequent articles, yea or not: and it was agreed, that the members shall be marked, as they shall vote, approve or not; and that the list of their names, as they shall vote *pro* and *con* be recorded and printed. Then the vote was put, Approve or not; and it was carried Approve.

The Fifth Article.] Then the Vth Article of the Union was read, whereupon a proposal was given for explaining and enlarging the same, in these terms; 'That all ships, or vessels belonging to her majesty's subjects of Scotland, at the time of ratifying the Treaty of Union of the two kingdoms in the parliament of Scotland, though foreign built, shall be deemed and pass as ships of the building of Great Britain: the owner, or where there are more owners, one or more of the owners, within twelve months after the Union, making oath, that, at the time of ratifying the Treaty of Union in the parliament of Scotland, the same did in whole or in part belonging to him or them, or to some other subject or subjects of Scotland to be particularly named, with the place of their respective abode; and that the same doth then, at the time of the said deposition, wholly belong to him or them: and that no foreigner, directly or indirectly, hath any share part or interest therein.'

Which being read, it was moved, that six months more time should be added to the time allowed, by the proposal, for purchasing ships or vessels. And after some reasoning upon it, the further consideration thereof was delayed till next sitting, which was on the 23d, when the Vth Article of Union was again read with the proposal for amending, explaining, and enlarging the same, inserted in the former days minutes, and rectified thus, viz. 'That all ships or vessels belonging to her majesty's subjects of Scotland, at the time of ratifying the Treaty of Union of the two kingdoms in the parliament of Scotland, though foreign built, should be deemed and pass as ships of the building of Great Britain: the owner, or where there are more owners, one or more of the owners, within twelve months after the 1st day of May next, making oath, that at the time of ratifying the Treaty of Union in the parliament of Scotland, the same did in all or in part belong to him or them, or to some other subject or subjects of Scotland, to be particularly named, viz. the place of their respective abodes; and that the same doth then, at the time of the said deposition, wholly belong to him or them; and that no foreigner, directly or indirectly, hath any share, part, or interest therein.'

And after some reasoning thereon, there was a second proposal given in for the amending the Article, in these terms, by the lord **Belhaven.** 'That all ships and vessels belong-

* "This speech was received with great satisfaction and applause, and the arguments in it were so clear, especially as to the proportions of the representative, that it was very useful when that head came to be debated; and I cannot but suppose the reader will think his time well bestowed in reading it, in that he will see by it, whether the Union was carried by strength of reasoning, or, as some alledged, crammed down their throats by mere number of voices." **De Foe.**

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ing to her majesty's subjects of Scotland, at the time of ratifying the Treaty of the Union of the two kingdoms, in the parliaments of both kingdoms, shall, &c.' And after some debate, the vote was stated, Approve of the first paragraph of the Vth Article, with the first amendment or second: and it was carried, Approve, with the first amendment.

Thereafter, the remainder of the said Vth Article of Union was read, and a proposal given by his grace the duke of Hamilton, for adding a clause in these terms: 'That for the space of seven years, from and after the concluding the Treaty or Union in both kingdoms, it is expressly agreed, that none of the seamen or mariners, on board any of the ships belonging to the subjects of that part of united Britain now called Scotland, shall either at home or abroad be pressed from on board their said ships, to serve in any of her Majesty's ships of war, or frigates: and in case, after the said seven years, it shall happen that there be a levy of seamen in united Britain, that part now called Scotland shall only be burdened with such a proportion as our taxes bear in proportion to that part of united Britain now called England, but without prejudice to the officers of her majesty's ships or fleet, to engage as many volunteer seamen in their service as they can agree with, in this part of united Britain; and this Article to be unalterable by any subsequent British parliament.' Which being read, after some reasoning thereupon, it was put to the vote, Add the second clause, or not; and it was carried Not. Thereafter, the remainder of the said Vth Article being again read, the vote was put, Approve thereof or not: and it was carried Approve. Then the Lord Chancellor, by order of her majesty's High Commissioner, adjourned the parliament till Tuesday next at ten o'clock.

The Sixth Article.] On the 26th the VIth Article of Union was read; and it was moved, 'That there should be a scheme laid before the Parliament of the whole branches of their trade, as to export and import:' and after some further debate, a proposal was given in, viz. 'That the Article should be agreed to, except in so far as it should be rectified by the parliament, in the consideration of the subsequent Articles.' As also another proposal was given in, 'That seeing by the laws of England there were rewards given upon exportation of several kinds of grain, wherein oats was not specified, that after the Union when oats should be at 15*s.* per quarter, or under, there should be paid 2*s.* 6*d.* for every quarter of oat-meal, exported in the terms of the laws, whereby the terms were granted for exportation of the grains; and in respect there was a duty upon oats imported into England, but no duties upon oat-meal, the importing of which was a prejudice and discouragement to tillage: therefore, that from and after the Union, the quarter of Oat-meal should be deemed equal to three quarters of oats, and pay duty accordingly when imported to Scotland from any place whatsoever from beyond the sea.' Which being all read, after reasoning, it was moved, 'That the observations, in relation to the balance of trade, should be laid before the parliament, as made by the council of trade.' And after debate thereon, the further consideration was delayed till the next sitting; and it was ordered, 'That the observations made by the council of trade, be laid before the parliament.'

During the debate on the VIth Article, which brings them under the same customs with England, it was argued by some members, 'That it was hard to enter upon such a general, until they understood the several branches of their trade, and how they agreed with the impositions of England.' This point was argued by the duke of Hamilton, marquess of Annandale, &c. The marquess argued, 'That in the Treaty of 1602 they were allowed to be under their own regulations, and to have a book of rates for themselves; upon which many of the members thought it hard they should not be allowed the same now. And it being also urged, That the committee of parliament, appointed for a council of trade, last session, had prepared an account of the several branches of their trade; and where the ballance lay;' it was ordered, That this report should be laid before the House.

On the 27th the VIth Article or Union was again read, and a proposal given in for adding the word (Draw-backs) to both clauses of the said Article; which was agreed to.

And the said Article also amended was again read, as also the proposal mentioned in the last minutes, in relation to oats and oat-meal; with the addition of a further clause, in these terms: 'And that the beer of Scotland should have the like rewards and draw-backs as barley.' And it was likewise moved, 'That another clause should be added, allowing the like draw-back on the exportation of oat-meal, as is allowed on the exportation of rye in England. And after debate it was agreed, that the VIth Article, with the proposals for amendments, should be remitted to a Committee.'

Then was a clause offered to be added to the said VIth Article, thus: 'But Scotland, for the space of ——— years after the first day of May next, shall be free from, and no ways subject to the prohibitions and restrictions made against exporting of wool skins with wool upon them, and woolen yarn, which by the oaths of the seller and buyer shall be made appear to be the proper growth and product of Scotland, and spun within the same, which shall no ways be comprehended under any of the laws already made in England, or to be made during the space aforesaid.'

As also a clause thus; 'Excepting and reserving the duties upon export and import of such particular commodities, from which the subjects of either kingdom are specially exempted by their private rights, which, after the Union, are to remain safe and entire to them in all respects.'

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And another clause thus, 'That after the Union all sorts of Scots linnen, or any kind of cloth made of flax or hemp, be exported out of the united kingdom free of all customs or other impositions whatsoever.'

And another thus, 'That before the Union, we may now have such a draw-back adjusted, as may enable us to export beef, pork and butter, to the West Indies, and other foreign parts, which will be one considerable branch of our trade after the Union.'

And another clause thus, 'That from and after the Union, all duties or bounty tolls, or other exactions upon black cattle, or any other product of Scotland, when carried into England, or product of England when carried into Scotland, payable either to the public or private persons, shall in all time coming be void and null.'

And another clause in these terms, 'That from and after the Union, the kingdom of Scotland shall have liberty for ever to manufacture plaiden, fingram, galloway, whites, serges, stockings, and all sorts of linnen, as they have been in use to do, conform to the regulations contained in their own laws, and to export the same to England, or the dominions and plantations thereunto belonging, or to any other place beyond seas, free of any duty or imposition whatsoever; but in case any of the subjects of that part of United Britain, now called Scotland, shall export any other sort of woollen manufacture than what is above mentioned, they are to be liable to the regulations and taxes of England, imposed before the Union, or to be imposed by the British parliament after the Union:' all which were remitted to the Committee for examining the calculation of the equivalent.

The Seventh Article.] Then the VIIth Article of Union was read, and being debated on the 28th a proposal was made for an explanation or addition thus, 'That the 34 gallons English barrel of beer or ale, amounting to 12 gallons Scots, present measure sold in Scotland by the brewer at 9*s.* 6*d.* sterl. excluding all duties, and retailed including duties; and the retailers profit at 2*d.* per Scots pint, or eighth part of the Scots barrel, be not, after the Union, liable, on account of the present excises upon exciseable liquors in England, to any higher imposition than two shillings sterling upon the 34 gallons English barrels, being 12 gallons the present Scots measure.

And another clause being likewise offered thus, 'And it is hereby specially provided, that the twopenny ale and beer of Scotland, shall be only charged with the same excise as the small-beer in England.

After some debate, the vote was stated, 'Approve of the VIIth Article, as to the excise of ale and beer, with the explanation as contained in the first or last clause above-mentioned.' And carried *Approve* the first.

On the 29th it was moved, that the observations made by the council of trade, in relation to the export and import of this nation and balance of our trade, should be laid before the Committee to whom the sixth Article of the Union was remitted, and the same was accordingly ordered. As also the clerks of the said council of trade, were ordered to transmit to the said committee, all observations, papers and records relating thereunto.

Tumult in Glascow, &c. complained of by the Lord Chancellor.] Then the Lord Chancellor acquainted the parliament, that the secret council at their last meeting, had under their consideration, several accounts of irregular and tumultuary meetings, by some people of the common and meanest degree, in arms; and of abuses committed by them at Glascow, Kirkubright and Dumfreis, and several places of Lanarkshire; and that there were papers dropt, inviting people to take up arms, and to provide ammunition and provisions, in order to their marching to disturb the parliament. All which he was directed by the secret council to lay before the parliament, to the effect proper methods might be resolved upon, for preventing the evil consequences of such practices; after which he presented a letter from the magistrates of Dumfreis to her majesty's advocate, bearing an account of the abuses and tumultuary meetings in that place, with a declaration emitted by those who met, which was affixed on the market cross of Dumfreis, and both were read.

Whereupon a draught of a proclamation, to be emitted by the parliament against all tumultuary and irregular meetings, and convocation of the lieges, was presented and read. And after some discourse thereupon, it being objected, that it did not appear that there was a particular information of any tumultuary meetings, or irregular convocations in any other part of the shire of Lanark, than at Glascow: her majesty's High Commissioner thereupon was pleased to notify to them, that he had information not only from Glascow and Dumfries, but also from several places in Lanarkshire, of tumultuary and irregular meetings of men under arms, and of their giving out and publishing their design of marching to disturb the parliament.

The proclamation being approved of, the draught of an Act suspending the effect of that clause in the Act of Security, for arming and exercising the fensible men, past in the second session of this parliament; and that during this session of parliament alenarly, was read and past on the 30th, and the same, and the proclamation mentioned before, were ordered to be forthwith published and printed.

Then the VIIth Article of Union was again read, and after some reasoning upon that part thereof, not formerly approved, it was put to vote, Approve of the rest of the VIIth Article, or not, and carried Approve.

A print was then given in, entitled, "An account of the burning of the Articles of Union at Dumfries," bearing the declaration read and affixed at the market cross thereof, by the tumult assembled on that occasion: and it being

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moved, that enquiry be made, who had been the printer and in-giver of the said scurrilous paper, and that the print be burnt by the hands of the hangman: it was remitted to the committee, to whom the VIth Article of Union was remitted, to call for the magistrates of Edinburgh, and to take trial and make enquiry anent the printer and in-giver of the said paper. They ordered also, that the said scurrilous print should be burnt by the common hangman.

The XVth Article being read, on the 7th of December the report was brought in from the committee for examining the Calculation of the Equivalent, being as follows:

The committee of parliament, to whom the considering of the Calculation of the Equivalent was remitted, having considered the report made to them by Dr. James Gregory, professor of the mathematics in the college of Edinburgh, and the report made by Dr. Thomas Bower, professor of the mathematics in the college of Aberdeen, of their several and respective examinations of the calculations and grounds thereof; whereupon the commissioners, in treating the Article for establishing the equivalent mentioned in the Article, say it is just, and the calculation is exact, and well founded in the terms, and in manner expressed in the said Article. Whereupon it was proposed to delay the consideration of the said XVth Article, until reports be brought in, in relation to the VIth and VIIIth Articles from the committee, to whom the said Articles were remitted.

And after debate upon it, it was agreed, that the proceeding on the XVth shall not be understood to be any determination of the VIth or VIIIth Articles that stood committed; but that the reasoning and voting on the VIth or VIIIth Articles, shall be entire.

Then a state of a vote was offered in these terms, Approve of the first paragraph of the XVth Article, or not.

But it being moved, That the parliament first consider, whether they should be concerned in the payment of the English debts. A second state was thereupon offered, Whether they should engage in the payment of the debts of England; yea or no.

And after some reasoning on it, it was put to the vote which of the two should be the state of the vote, first or second.

Lord Belhaven's Protest against being concerned in the English Debts.] And the lord Belhaven gave in a Protest as follows: "I do protest in my own name, and in the name of all those who do adhere to this my protest, that the voting and agreeing to the first clause of the XVth Article of the Treaty of Union, does no ways infer any manner of consent or agreement, that Scotland should be liable to the English debts in general: but that it may be lawful to object against any branch of the said debt not already determined." And he took instruments upon it, and adhered thereunto.

Then the vote was put First or Second, and it was carried First. Thereafter it was put to the vote, Approve of the first clause or paragraph of the XVth Article or not, and carried Approve.

The Sixth Article passed.] The VIth Article admitted of many debates, but was at last, on the 16th, passed with several additions, enlargements and explanations; but before, viz. on the 12th, the parliament ordered, That a scurrilous print, entitled, Queries to the Presbyterian noblemen, barons, burgesses, ministers and commoners in Scotland, who are for the scheme of an incorporating Union with England, according to the Articles agreed upon by the commissioners of both nations, be burned by the hands of the common hangman at the market cross of Edinburgh, to-morrow, between eleven and twelve of the clock, and the magistrates of Edinburgh appointed to see the same punctually done. And remitted to the committee of parliament, to whom the VIth and VIIIth Articles of Union were remitted, to make enquiry after the printer, author, and in-giver of the said scurrilous paper.

And on the 16th a scurrilous print, asserting the dependency of the crown and kingdom of Scotland upon that of England, was brought in, and several paragraphs thereof being read, Ordered, That the same be burnt by the hands of the common hangman, at the market cross of Edinburgh next morning.—The VIIIth Article of the Union took up the parliament's time from the 17th to the 26th, when it was approved with the several alterations, additions and enlargements made unto it; they went through the XVth Article on the 30th, and passed it.

The XVIth and XVIIth Articles were approved of on the 30th: then the XVIIIth Article was read, and a motion was made for making an additional clause to it, in these words; 'And that in making any such laws, special regard be had to overtures to be presented to that parliament by the lords of sessions of Scotland.' And after further reasoning, an overture was given in for adding another clause in these terms; 'that all Scotchmen be exempted from the English sacramental test, not only in Scotland, but in all places of the United kingdom and dominions thereunto belonging; and that they be declared capable of offices throughout the whole, without being obliged to take the said test.' And after debate, it being moved, 'that it was not now entire to add the said clause in relation to the sacramental test, in respect of the vote of parliament of the 12th of November last, against adding the like clause: After some further discourse thereon, it was agreed, 'That the same should be put to the vote, and that the members votes be marked and the list of their names, as they should vote, be printed and recorded, as usual.'

Then the vote was put, Whether it was entire to add the clause, or not? And it carried, Not: and so it was approved of.

The Scotch parliament, on the 2d of January, passed an Act for adjourning the session or term one month longer; and then proceed on the XIXth Article, to the first clause whereof

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they agreed with a stipulation, that the lords of the session should, for the future, be taken from among the advocates and writers to the signet (which was carried by thirteen votes only) and none to be deemed capable, that had not practised the law at least five years for the former.

The next day, a motion was made for an additional clause, in relation to the qualifications of writers, viz. 'With this provision, that no writer to the signet be capable to be admitted lord of the session, unless he undergo a private and public trial in the civil law before the faculty of advocates, and be found by them qualified for the above-said office, two years before they shall be named to be a lord of the session. After reasoning, the vote was stated, Add or not; but before voting, it was moved, that the qualifications made, or to be made for capacitating persons to be named ordinary lords of the sessions, shall be alterable by the parliament of Great Britain; and after debate, it was put to the vote, and carried Alterable, by sixty.' Then the vote was put, to add the clause about the qualification of writers, and it was carried, Add. The other clauses of the XIXth Article being read, and debated, the whole, as amended, was approved.

The 4th was spent in private affairs; for which, the lord chancellor, by order of the high commissioner, acquainted the house, that two other days should be appointed in this session.

On the 6th, the XXth Article, with the addition of the word Superiorities, and the 21st, without any amendment, were approved; and the next day the XXIId Article was read; and afterwards, the first paragraph in relation to the number of representatives for Scotland in the parliament of Great Britain, was read over again. After a long debate a Vote was stated, Approve of the first paragraph of the said Article or not; but before voting it was agreed, that the names of the members as they voted should be printed and recorded; and George Lockhart of Carnwarth, duke of Athol, earl of Buchan, earl of Errol, earl Marischal, and Walter Stewart, for the town of Linlithgow, gave in six several Protests, and took instruments thereof separately. Then the vote was put, Approve of the first paragraph of the XXIId Article, or not, and it was carried, Approve, by forty. The second paragraph of the said Article, about the calling the representatives from Scotland to the parliament of Great Britain, beginning thus, ('And that when her 'majesty, &c.') and ending thus, ('That the 'names of the persons so summoned, and 'elected, shall be returned by the privy council 'of Scotland, into the court from whence the 'said writ did issue,) was again read;' and after some debate, an amendment was offered to be added, after these words, (according to the agreement in this Treaty) viz. 'In such 'manner, as by a subsequent parliament act, 'of this present session of the parliament of 'Scotland, shall be settled, which is hereby 'declared to be also voted, as a part of, and 'engrossed in this Treaty;' and after further reasoning, it was moved, that the way and manner of choosing the representatives for Scotland, to the parliament of Great Britain, should be determined; and that a clause to that purpose be engrossed in this Article: After debate the vote was stated, Approve of the second paragraph of the XXIId Article, as amended by the above additional clause, yea or not; whereupon it being moved, to delay the said vote till next sitting of parliament, a previous vote was stated, Proceed, or delay; and it was carried, Proceed. Then it was put to the vote, Approve of the said second paragraph of the XXIId Article with the amendment in the additional clause above inserted, or not. The clause with the amendments being again read, the earl of Abercorn gave in a Protest, and took instruments thereupon. At last, the vote was put, Approve or not, and it was carried, Approve.

On the 8th it was moved, that the four protests given in the former sitting by the duke of Athol, earl of Buchan, George Lockhart of Carnwarth, and Walter Stewart, ought not to be inserted in the minutes, nor printed; and after some reasoning the earl of Marchmont gave in a protestation against the said four Protests, took instruments thereupon, and the lord chancellor, the marquiss of Montross president of the council, the duke of Argyle, the marquisses of Tweedale and Lothian, and most of the well-affected to the Union, adhered thereto. The next day the lord Balmerino gave in a Protestation against that of the earl of Marchmont, took instruments thereupon, and the duke of Hamilton and his party adhered to the same. After some further debate it was agreed, that none of the said protests should be inserted at length, in the minutes, or printed: but that they should be all inserted in the records of parliament.

Then the third paragraph of the XXIId Article, beginning, viz. 'And that if her majesty, on, or before the first day of May next,' &c. and ending thus, viz. 'And that the parliament may continue for such time only, as the present parliament of England might have continued, if the Union of the two kingdoms had not been made, unless sooner dissolved by her majesty,' was read: and after reasoning thereon, it was moved, to add the following clause, viz. 'And that the said parliament of Great Britain shall meet, and sit, once in three years, at least, in that part of Great Britain now called Scotland. After further debate, there were two states of the vote offered, the first, Approve of the third paragraph of the XXIId Article or not; and the second, Add the above clause or not, and the vote being put, first or second, it was carried First: Afterwards the vote was put, Approve of the third paragraph of the said Article, or not, and it was carried, Approve. Then the rest of the said Article was read, and after some reasoning, and reading of the oaths to which it related, an overture was given in for an additional clause, for explaining the word

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'limitation,' mentioned in the oath appointed to be taken by stat. 13. William 3, ch. 6. as also an overture for exempting persons in any office or employment in Scotland, from taking the oath of abjuration mentioned in the said Article. A third overture was given in for a clause, That so long as the act appointing the sacramental test, shall continue in force in England, all persons in public trust within the limits of Scotland, shall swear, and sign a formula thereto subjoined, in manner, and under the penalty therein mentioned. After reading the said three overtures, and reasoning thereon, a vote was stated, Approve of the XXIId Article of Union as explained, or not. But before voting it was agreed, that notwithstanding of the said vote, and that the Article should thereby be approved, it should nevertheless be entire and free afterwards, to the parliament to give their sentiments thereon. And it being thereupon moved to delay the vote for approving the Article till next sitting, a previous vote was stated, Proceed, or Delay, and it was carried Proceed. Then the vote was put, Approve the XXIId Article as explained, or not, and it was carried Approve.

On the 10th, after reading the Address of Perth against an Union, in the terms of the Articles, the overture for exempting persons in any office or employment in Scotland, from taking the oath of abjuration mentioned in the XXIId Article of the Union, was again read, and after some reasoning thereon, the overture was dropped. Then the overture for an additional clause to the said XXIId Article, for explaining the word 'limitation,' mentioned in the oath appointed to be taken by 13 William 3, cap. 6, was again read, viz. 'Like as it is declared, that by the word limitation, in the oath mentioned in the above Article, is only understood, entail of the succession, and not the conditions of government upon the successor; and that all persons of Scotland, who may be liable to take the said oath, swear it in that sense only.' And, after reasoning thereon, the vote was put, Add the said clause, or Not, and it was carried, Not. Then the third overture for a clause to be added to the said XXIId Article mentioned in the minutes of the last sitting, was again read in these terms, 'And further, it is agreed, that so long as that part of the second act, Anno 25 Ch. 2, appointing a sacramental test, shall stand, and continue in force in England, all persons in public trust, civil or military, within the limits of Scotland, shall swear and sign the formula under-written, within six months after the commencement of the Union: and all who shall be admitted to any public trust thereafter, shall, before the exercising their said office of trust, swear and subscribe the same, to be administered by the lords of the privy council, or any one of them, under the like penalties and disabilities, as are provided by the foresaid act made in the parliament of England. Here follows the *formula*. 'I A. B. do sincerely and solemnly declare, in the presence of God, that I own the Presbyterian government of the church, as by law established in Scotland, to be a lawful government of the church; and that I shall never, directly nor indirectly, endeavour the subversion thereof, nor any alteration in the worship, discipline, or government of the said church, as by law established: so help me God.' After reasoning thereon, the vote was put, Add the clause, or Not; and it was carried Not, by a majority of thirty-five voices. Then the XXIIId Article of Union was read, and after reasoning thereon, the further debate was adjourned till the 13th, when an overture was given in, for adding a clause thereto in these terms, with this express provision, 'That none of the peers of Scotland should have personal protection within Scotland, for any debt owing before the commencement of the Union.' As also another overture for adding a clause, in these terms, 'That all the peers of that part of Great Britain now called Scotland, qualified according to law, shall, after the Union, have right to sit covered in the house of peers of Great Britain, notwithstanding that the right to give vote therein belongs only to the said sixteen peers, who are to be summoned in the manner appointed by the preceding Article.' After reasoning upon the said two overtures, and upon two separate motions, the first in relation to allowing all the peers of Scotland to sit upon the trial of the peers of Britain; and the other in relation to their precedency according to their patents; the vote was stated in these terms, Approve the XXIIId Article of Union, or Alter, reserving entire the consideration of the above two overtures, and whether the same shall be added to the Article, and it was carried, Approve. Then the first overture for the clause, in relation to personal protection was again read; and after debate, it was put to the vote, Add the clause, or Not; and it was carried, Not. Afterwards the second overture, or a clause in relation to all the peers of Scotland, their sitting covered in the house of peers of Great Britain, was again read, and after reasoning, the vote was put, Add the clause, or Not, and it was carried, Not.

On the 14th the XXIVth Article was read, whereupon a memorial was given from Lyon king of arms, in relation to his precedency, which being read, after reasoning it was moved, that the rank and precedency of Lyon king of arms, be left to her majesty, and next to these words, in the said Article, viz. (And that the quartering the arms) these other words, viz. 'And the rank and precedency of Lyon king of arms of the kingdom of Scotland,' be added. And it being also moved, that his rank should be likewise inserted in the said Article, to be immediately next after Garter principal king of arms in England: after debate, it was put to the vote, Add the above words, that the rank and precedency be left to her Majesty, or Insert the rank and precedency, and it was carried, The words; which being accordingly added, there was another clause offered to be added, to the XXIVth Article, viz. 'And that the

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crown, scepter and sword of state, records of parliament, and all other records, rolls and registers whatsoever, both public and private, general and particular, and warrants thereof, continue to be kept, as they are, in that part of the united kingdom, now called Scotland, and that they shall so remain in times coming, notwithstanding the Union.' Which being read, the same was agreed to be added, and was accordingly subjoined, and the Article, as amended, read over. Then the vote was put, Approve of the said XXIVth Article, as amended, or Not, and it was carried Approve. The XXVth Article of Union being read: after reasoning thereon, the vote was put, Approve of the XXVth Article, or Not, and it was carried Approve.

Act of Ratification read.] Next day the draught of an Act, ratifying and approving the Treaty of Union of the two kingdoms of Scotland and England, was given in, and offered to be read; whereupon it was moved, that the parliament should first proceed, to the constitution of the manner of electing the representatives for Scotland to the parliament of Great Britain, and either now to determine that matter, or to appoint a day for that end. After debate the vote was stated, 'Proceed to the Ratification of the Treaty of Union, and Act for Security of the Protestant religion, and Presbyterian church government, or to the constitution of the manner of electing the representatives for Scotland to the parliament of Great Britain:' but before voting, it was agreed, that in case it should be carried to proceed to the Ratification, the parliament would immediately, after passing the Act of Ratification, proceed to the constitution of the manner of electing the representatives for Scotland. Then the vote was put, Proceed to the Ratification or Constitution, and it was carried Ratification: after which the draught of the Act, ratifying, approving, and at length, narrating the Articles of Union, as enlarged, explained and amended, and the Act for Security of the Protestant Religion, and Presbyterian Church-government was read; and after some discourse, a first reading marked thereon.

Act for Security of the Presbyterian Church Government passed.] On the 16th, the said Act was read a second time; and then the Act for Security of the Protestant Religion, and Presbyterian Church government, inserted in, and ratified by that Act, was touched with the royal sceptre, by the Lord High Commissioner.

Representation, &c. of the Church of Scotland.] Immediately after this, the following Representation and Petition were presented to the House:

> The Representation and Petition of the Commission of the General Assembly of the National Church of Scotland, was presented to the House:
>
> "Humbly shewing; That we, considering the trust reposed in us by the late General Assembly, find it our duty to lay before your grace and lordships, when, as we are informed, you are about the passing of an Act of Ratification of the Articles of the Treaty of Union betwixt the two kingdoms of Scotland and England, which contains these following words; Declaring nevertheless, that the parliament of England may provide for the Security of the Church of England, as they shall think expedient, to take place within the bounds of the said kingdom of England, and not derogating from the security above provided, for establishing the Church of Scotland within the bounds of this kingdom, which shall not suspend or derogate from the force and effect of this present ratification, but shall be understood as here included, without any necessity of any new ratification in the parliament of Scotland: which clause seems to us, not only to be a blank, put, with your grace and lordship's consent, in the hands of the parliament of England, to enact what they shall think fit, for securing the hierarchy and ceremonies of their Church; but also a consent that it be an Article and fundamental of the Union; and that as it is contained in your ratification cannot but imply a manifest homologation.—We do therefore humbly beseech your grace and lordships, that there be no such stipulation, or consent for the establishment of that hierarchy and ceremonies, as you would not involve yourselves and this nation in guilt, and as you consult the peace and quiet of this nation, both in church and state. We pray, that God may bless and preserve our gracious queen, and direct your grace and lordships in this, and all the great and momentous affairs, which are, or may be before you.'"
>
> Signed in the name, in the presence, and at the appointment of the commission of the late General Assembly, by
>
> *Sic Subscribitur*
>
> WILL. WISHART, Moderator.

The Act of Ratification passed.] After reasoning upon the Act and Representation, the vote was stated, Approve the act, or not: but before voting, it was agreed, that the votes be marked, and the chancellor allowed to be marked, as an approver. At the same time, the duke of Douglas gave in a protestation for his privilege of the first vote in parliament, and took instruments thereon; and the duke of Hamilton gave in also a protestation to the contrary. Then the vote was put, Approve the act, ratifying and approving the Treaty of Union of the two kingdoms of Scotland and England, Yea or Not; and it was carried, Approve, by a majority of 110 voices, against 69, and then the act was touched with the royal scepter by her majesty's high commissioner in the usual manner.

The next business the Scotch parliament went upon, was the preparing an act for the settling the manner of electing the sixteen peers, and forty-five commoners, to represent Scotland in the parliament of Great Britain,

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which was debated in the sittings of the 20th, 21st, 22d, 24th, 27th, 28th, 29th, and 31st instant.

The Manner of electing Representatives of Scotland settled.] On the 22d, an overture relating to the ways of electing the representatives for Scotland, to the parliament of Great Britain, was read. And after reasoning thereon, the vote was put, Whether the 16 peers, who were to be representatives for Scotland, in the parliament of Great Britain, should be sent by Rotation or Election; and it was carried, by Election. Then it was moved, that it be considered, what way the election should be, whether by balloting, or by an open election: and after debate thereon, the vote was put, Whether it shall be by Open Election, or Balloting; and it was carried, by Open Election. The 24th it was debated what proportions the shires and boroughs should have, of the 45 members that were to sit in the House of Commons of Great Britain. And it being proposed, that 30 should be the number for the shires, and 15 the number for the boroughs, it was put to the vote, and carried Approve.

The 29th, a vote was put, if the burgh of Edinburgh, by itself, should have one representative or not, and it was carried, One. Then a scheme dividing the burghs into 15 districts, each of which districts was to have one representative, was given in, and read as follows: The burghs of Kirkwal, Week, Dornock, Lingwal, and Tain, one; Fortross, Invernes, Nairn and Forres, one; Elgin, Cullen, Bamf, Inverary and Kintore, one; Aberdeen, Bervie, Moutross, Aberbrothock and Breichin, one; Forfar, Perth, Dundee, Cowper and St. Andrews, one; Cryll, Kilreany, Anstruthers easter and wester, and Pitenween, one: Dysart, Kirkaldy, Kinghorne and Brunt island, one; Inverkeath, Dumferling, Queen's-ferry, Culross and Sterling, one; Glascow, Renfrew, Rutherglen and Dumbarton, one; Edinburgh, one; Haddington, North-Berwick, Dunbar, Lauder and Jedburgh, one; Selkirk, Peebles, Linlithgow and Lanerk, one; Dumfries, Sanqhuar, Anan, Lockmohan and Kircubright, one; Wigtoun, New-Galloway, Whithorn and Strantawen, one; Aire, Irwin, Rothsey, Cambleton and Inverary, one.

Scotch Commissioners, &c. voted their Expences.] This Vote being put, the scheme was carried, and the parliament, on the last of this month, took into consideration a motion for allowing the expence to the commissioners for the Union, and it was resolved, that each nobleman concerned should have 12,000*l.* Scots, and every other commissioner 6,000*l.*; their secretary 4,800*l.* the three accomptants 2,400*l.* each, out of the equivalent, *pari passu*, with public debts, after the African company; but before voting, the votes were ordered to be printed, and the lord Archibald Campbel, then made earl of Isla, was allowed his expences as a nobleman: It was also carried that the commissioners for the Treaty in 1702, should be allowed for their expences, each nobleman 500*l.* sterling, each baron 300*l.* and each borough 200*l.* and the expence was declared to be a public debt, and referred to a committee to state the same as such.

The Parliament of Scotland adjourned.] The remainder of the session was spent, among other affairs, in examining the accounts of the African and Indian company, and providing for the due application of the equivalent. In disposing of this sum, great partialities appeared, which were much complained of, but there was not strength to oppose them. The ministry, and those who depended on them, moved for very extravagant allowances to those who had been employed in this last, and in the former Treaty: and they made large allotments of some public debts, that were complained of as unreasonable and unjust; by which a great part of the sum was diverted from answering the end for which it was given. This was much opposed by the Squadrone; but as the ministers promoted it, and those who were to get by it, made all the interest they could to obtain it (some few of them only excepted, who, as became generous patriots, shewed more regard to the public, than to their private ends) so those who had opposed the Union, were not ill pleased to see this sum so misapplied: hoping, by that means, that the aversion which they endeavoured to infuse into the nation against the Union, would be much increased; therefore they let every thing go as the ministers proposed, to the great grief of those who wished well to the public.

Mar. 25. The business of the session being ended, the High Commissioner went to the Parliament house in great solemnity, being attended by the whole troop of life-guards, and all the nobility and gentry in their coaches, and, having touched with the royal scepter several acts, made the following speech to the parliament:

"My lords and gentlemen; The public business of this session being now over, it is full time to put an end to it. I am persuaded, that we and our posterity will reap the benefit of the Union of the two kingdoms; and I doubt not, but, as this parliament has had the honour to conclude it, you will, in your several stations, recommend to the people of this nation a grateful sense of her majesty's goodness and great care for the welfare of her subjects, in bringing this important affair to perfection; and that you will promote an universal desire in this kingdom, to become one in heart and affections, as we are inseparably joined in interest with our neighbour nation.—My lords and gentlemen, I have a very deep sense of the assistance and respect I have met with from you in this session of parliament; and I shall omit no occasion of shewing, to the utmost of my power, the grateful remembrance I have of it."

The parliament being adjourned to the 22d of April, the duke returned to the queen's palace in the same solemnity as he went to the house, and gave a splendid entertainment to

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the nobility and gentry. The day before, the draught of a Letter from the parliament to the queen was brought in, voted and approved; and, the duke having thus happily concluded this session, and surmounted all the difficulties which he met with, he set out, a few days after, for London, where he arrived the 16th of April, being met several miles out of town by many noblemen and gentlemen in their coaches, to the number of above forty, and by near four hundred persons on horse-back. The next morning he waited upon the queen at Kensington, where he was very graciously received.

N° II.

Act ratifying and approving the Treaty of the two Kingdoms of Scotland and England.

The following is an exact Copy of the Act of Ratification of the Treaty of Union, as it was passed in the Parliament of Scotland, with the Exemplification thereof from England, as it stands recorded in Scotland, by order of the Parliament there.

A. D. 1707.

The Estates of Parliament considering, that Articles of Union of the kingdoms of Scotland and England, were agreed on the twenty-second of July, 1706, by the Commissioners nominated on behalf of this kingdom, under her majesty's great seal of Scotland, bearing date the 27th of February last past, in pursuance of the fourth act of the third session of this parliament, and the commissioners nominated on behalf of the kingdom of England, under her majesty's great seal of England, bearing date at Westminster the 10th day of April last past, in pursuance of an act of parliament made in England the 3rd year of her majesty's reign, to treat of and concerning an Union of the said kingdoms; which Articles were, in all humility, presented to her majesty, upon the 23d of the said month of July, and were recommended to this parliament by her majesty's royal letter of the date the 31st day of July, 1706; and that the said estates of parliament have agreed to, and approven of the said Articles of Union, with some additions and explanations, as is contained in the Articles hereafter insert. And sicklike, her majesty, with advice and consent of the estates of parliament, resolving to establish the Protestant religion and Presbyterian church government within this kingdom, has past in this session of parliament an act, intituled, Act for securing of the Protestant religion and Presbyterian church government, which, by the tenor thereof, is appointed to be insert in any act ratifying the Treaty, and expressly declared to be a fundamental and essential condition of the said Treaty of Union in all time coming. Therefore, her majesty, with the advice and consent of the estates of parliament, in fortification of the approbation of the Articles as above-mentioned, and for their further and better establishment of the same, upon full and mature deliberation upon the foresaid Articles of Union, and act of parliament, doth ratify, approve, and confirm the same, with the additions and explanations contained in the said Articles, in manner, and under the provisions after mentioned, whereof the tenor follows.

I. Article, That the two kingdoms of Scotland and England shall, upon the 1st day of May next ensuing the date hereof, and for ever after, be united into one kingdom by the name of Great Britain, and that the ensigns armorial of the said United Kingdom be such as her majesty shall appoint, and the Crosses of St. Andrew and St. George be conjoined in such manner as her majesty shall think fit, and used in all flaggs, banners, standards, and ensigns, both at sea and land.

II. That the succession to the monarchy of the United Kingdom of Great Britain, and of the dominions thereunto belonging, after her most sacred majesty, and in default of issue of her majesty, be, remain and continue to the most excellent Princess Sophia, electoress and dutchess dowager of Hanover, and the heirs of her body, being Protestants, upon whom the crown of England is settled by an act of parliament made in England, in the 12th year of the reign of his late majesty king William 3, intituled, An act for the further limitation of the crown, and better securing the rights and liberties of the subject: and that all papists and persons marrying papists, shall be excluded from, and for ever incapable to inherit, possess, or enjoy the Imperial Crown of Great Britain, and the dominions thereunto belonging, or any part thereof; and in every such case, the crown and government shall, from time to time, descend to, and be enjoyed by such person, being a protestant, as should have inherited and enjoyed the same, in case such papist, or person marrying a papist, was naturally dead, according to the provision for the descent of the Crown of England, made by another act of parliament in England, in the 1st year of the reign of their late majesties king William and queen Mary, intituled, An act declaring the rights and liberties of the subject, and settling the succession of the crown.

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III. That the United Kingdom of Great Britain be represented by one and the same parliament, to be styled the parliament of Great Britain.

IV. That all the subjects of the United Kingdom of Great Britain shall, from and after the Union, have full freedom and intercourse of trade and navigation, to and from any port or place within the said United Kingdom, and the dominions and plantations thereunto belonging, and that there be a communication of all other rights, privileges and advantages, which do or may belong to the subjects of either kingdom, except where it is otherwise expressly agreed in these Articles.

V. That all ships, or vessels, belonging to her majesty's subjects of Scotland, at the time of ratifying the Treaty of Union of the two kingdoms in the parliament of Scotland, though foreign built, be deemed and pass as ships of the build of Great Britain: the owner, or where there are more owners, one or more of the owners, within 12 months after the 1st of May next, making oath, that, at the time of ratifying the Treaty of Union in the parliament of Scotland, the same did, in hail or in part, belong to him or them, or some other subject or subjects of Scotland, to be particularly named, with the place of their respective abodes, and that the same doth then, at the time of the said deposition, wholly belong to him or them, and that no foreigner, directly or indirectly, hath any share, part or interest therein; which oath shall be made before the chief officer or officers of the customs, in the port next to the abode of the said owner or owners; and the said officer, or officers, shall be empowered to administer the said oath: and the said oath being so administered, shall be attested by the officer, or officers, who administered the same, and being registered by the said officer or officers shall be delivered to the master of the ship for security of her navigation, and the duplicate thereof shall be transmitted by the said officer or officers, to the chief officer or officers of the customs in the port of Edinburgh, to be there entered in a register, and from thence to be sent to the port of London, to be there entered in the general register of all trading ships belonging to Great Britain.

VI. That all parts of the United Kingdom for ever, from and after the Union, shall have the same allowances, encouragements and drawbacks, and be under the same prohibitions, restrictions and regulations of trade, and liable to the same customs and duties on import and export; and that the allowances, encouragements and drawbacks, prohibitions, restrictions and regulations of trade, and the customs and duties on import and export settled in England, when the Union commences, shall, from and after the Union, take place throughout the whole United Kingdom, excepting and reserving the duties upon export and import of such particular commodities, from which any persons, the subjects of either kingdom, are specially liberated and exempted by their private rights, which, after the Union, are to remain safe and intire to them, in all respects, as before the same; and that, from and after the Union, no Scots cattle carried into England shall be liable to any other duties, either on the public or private accounts, than these duties, to which the cattle of England are or shall be liable within the said kingdom. And seeing, by the laws of England, there are rewards granted upon the exportation of certain kinds of grain, wherein oats grinded or ungrinded are not expressed, that, from and after the Union, when oats shall be sold at fifteen shillings sterling per quarter, or under, there shall be paid two shillings and sixpence sterling for every quarter of the oatmeal exported in the terms of the law, whereby and so long as rewards are granted for exportation of other grains, and that the bear of Scotland have the same rewards as barley. And in respect to the importation of victual into Scotland, from any place beyond sea, would prove a discouragement to tillage, therefore, that the prohibition, as now in force by the law of Scotland, against importation of victual from Ireland, or any other place beyond sea into Scotland, do, after the Union, remain in the same force as now it is, until more proper and effectual ways be provided by the parliament of Great Britain, for discouraging the importation of the said victual from beyond sea.

VII. That all parts of the United Kingdom be for ever, from and after the Union, liable to the same excises upon all exciseable liquors, excepting only, that the thirty-four gallons English barrel of beer or ale, amounting to twelve gallons Scots present measure, sold in Scotland by the brewer at 9*s*. 6*d*. sterling, excluding all duties, and retailed, including duties and the retailer's profit, at 2*d*. the Scots pint, or eight part of the Scots gallon, be not, after the Union, liable, on account of the present excise upon exciseable liquors in England, to any higher imposition than 2*s*. sterling upon the foresaid thirty-four gallons English barrel, being twelve gallons the present Scots measure, and that the excise settled in England on all other liquors, when the Union commences, take place throughout the whole United Kingdom.

VIII. That from and after the Union, all foreign salt, which shall be imported into Scotland, shall be charged at the importation there, with the same duties as the like salt is now charged with, being imported into England, and to be levied and secured in the same manner. But in regard the duties of great quanties of foreign salt imported may be very heavy on the merchants importers, that therefore all foreign salt imported into Scotland shall be cellared and locked up under the custody of the merchant importer, and the officers employed for levying the duties upon salt, and that the merchant may have what quantities thereof his occasion may require, not under a weigh or 40 bushels at a time, giving secu-

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rity for the duty of what quantity he receives, payable in six months; but Scotland shall, for the space of 7 years from the said Union, be exempted from paying in Scotland, for salt, made there, the duty or excise now payable for salt made in England; but, from the expiration of the said 7 years, shall be subject and liable to proportional duties for salt made in Scotland, as shall be then payable for salt made in England, to be levied and secured in the same manner, and with the same drawbacks and allowances, as in England; with this exception, that Scotland shall, after the said 7 years, remain exempted from the duty of 2*s.* 4*d.* a bushel on home salt, imposed by an act made in England in the 9th and 10th of king William the 3d of England. And if the parliament of Great Britain shall, at or before the expiring of the said 7 years, substitute any other fund in place of the said 2*s.* 4*d.* of excise on the bushel of home salt, Scotland shall, after the said 7 years, bear a proportion of the said fund, and have an equivalent in the terms of this treaty: and that, during the said 7 years, there shall be payed in England, for all salt made in Scotland, and imported from thence into England, the same duties upon importation, as shall be payable for salt made in England, to be levied and secured in the same manner as the duties on foreign salt are to be levied and secured in England. And that, after the said 7 years, how long the said duty of 2*s.* 4*d.* a bushel upon salt is continued in England, the said 2*s.* 4*d.* a bushel shall be payable for all salt made in Scotland, and imported into England, to be levied and secured in the same manner; and that, during the duty of 2*s.* 4*d.* a bushel upon salt made in England, no salt whatsoever be brought from Scotland to England by land in any manner, under the penalty of forfeiting the salt, and the cattle and carriages made use of in bringing the same, and paying 20*s.* for every bushel of such salt, and proportionally for a greater or lesser quantity; for which the carrier, as well as the owner, shall be liable jointly and severally, and the persons bringing or carrying the same to be imprisoned by any one justice of the peace by the space of 6 months without bail, and until the penalty be payed. And for establishing an equality in trade, that all fleshes exported from Scotland to England, and put on board in Scotland, to be exported to parts beyond the seas, and provisions for ships in Scotland, and for foreign voyages, may be salted with Scots salt, paying the same duty for what salt is so employed as the like quantity of such salt pays in England, and under the same penalties, forfeitures and provisions, for preventing of frauds, as are mentioned in the laws of England: and that, from and after the Union, the laws and acts of parliament in Scotland, for pineing, curing and packing of herrings, white fish and salmond for exportation with foreign salt only, without any mixture of British or Irish salt, and for preventing of frauds in curing and packing of fish, be continued in force in Scotland, subject to such alterations as shall be made by the parliament of Great Britain; and that all fish exported from Scotland to parts beyond the seas, which shall be cured with foreign salt only, and without mixture of British or Irish salt, shall have the same eases, præmiums and draw-backs, as are or shall be allowed to such persons as export the like fish from England: and that, for encouragement of the herring fishing, there shall be allowed and payed to the subjects, inhabitants of Great Britain, during the present allowances for other fishes, 10*s.* 5*d.* sterling for every barrel of white herrings which shall be exported from Scotland; and that there shall be allowed 5*s.* sterling for every barrel of beef or pork salted with foreign salt, without mixture of British or Irish salt, and exported for sale from Scotland to parts beyond sea, alterable by the parliament of Great Britain. And if any matters or fraud relating to the said duties on salt shall hereafter appear, which are not sufficiently provided against by this article, the same shall be subject to such further provisions as shall be thought fit by the parliament of Great Britain.

IX. That, whenever the sum of 1,997,763*l.* 8*s.* 4*d.* $\frac{1}{2}$ shall be enacted by the parliament of Great Britain, to be raised in that part of the United Kingdom now called England, on land, and other things usually charged in acts of parliament there, for granting an aid to the crown by a land tax, that part of the United Kingdom now called Scotland, shall be charged, by the same act, with a further sum of 48,000*l.* free of all charges, as the quota of Scotland to such tax, and so proportionally for any greater or lesser sum raised in England by any tax on land, and other things usually charged together with the land; and that such quota for Scotland, in the cases aforesaid, be raised and collected in the same manner as the cess now is in Scotland; but subject to such regulations in the manner of collecting as shall be made by the parliament of Great Britain.

X. That, during the continuance of the respective duties on stampt paper, vellum and parchment, by several acts now in force in England, Scotland shall not be charged with the same respective duties.

XI. That, during the continuance of the duties payable in England on windows and lights, which determines on the 1st day of August, 1710, Scotland shall not be charged with the same duties.

XII. That, during the continuance of the duties payable in England on coals, culm and cinders, which determines the 30th of September 1710, Scotland shall not be charged therewith for coals, culm, and cinders, consumed there, but shall be charged with the same duties as in England for all coal, culm and cinders, not consumed in Scotland.

XIII. That, during the continuance of the duty payable in England on malt, which determines the 24th day of June, 1707, Scotland shall not be charged with that duty.

XIV. That the kingdom of Scotland be not charged with any other duties laid on by the

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parliament of England before the Union, except those consented to in this Treaty, in regard it is agreed, that all necessary provision shall be made by the parliament of Scotland for the public charge and service of that kingdom, for the year 1707; provided, nevertheless, that, if the parliament of England shall think fit to lay any further impositions, by way of customs, or such excises, with which, by virtue of this Treaty, Scotland is to be charged equally with England, in such case, Scotland shall be liable to the same customs and excises, and have an equivalent to be settled by the parliament of Great Britain; with this further provision, that any malt to be made and consumed in that part of the United Kingdom now called Scotland, shall not be charged with any imposition upon malt during this present war; and seeing it cannot be supposed, that the parliament of Great Britain will ever lay any sorts of burdens upon the United Kingdom, but what they shall find of necessity at that time for the preservation and good of the whole, and with due regard to the circumstances and abilities of every part of the United Kingdom; therefore it is agreed, that there be no further exemption insisted upon for any part of the United Kingdom, but that the consideration of any exemptions, beyond what are already agreed on in this Treaty, shall be left to the determination of the parliament of Great Britain.

XV. Whereas, by the terms of this Treaty, the subjects of Scotland, for preserving an equality of trade throughout the United Kingdom, will be liable to several customs and excises now payable in England, which will be applicable towards payment of the debts of England, contracted before the Union, it is agreed, that Scotland shall have an equivalent for what the subjects thereof shall be so charged towards payment of the said debts of England in all particulars whatsoever, in manner following, viz. That, before the Union of the said kingdoms, the sum of 398,085*l.* 10*s.* be granted to her majesty, by the parliament of England, for the uses after mentioned, being the equivalent to be answered to Scotland, for such parts of the said customs and excises upon all exciseable liquors, with which that kingdom is to be charged upon the Union, as will be applicable to the payment of the said debts of England, according to the proportions which the present customs in Scotland, being 30,000*l.* per annum, do bear to the customs in England, computed at 1,341,559*l.* per annum, and which the present excises on exciseable liquors in Scotland, being 33,500*l.* per annum, do bear to the excises on exciseable liquors in England, computed at 947,602*l.* per annum, which sum of 398,085*l.* 10*s.* shall be due and payable from the time of the Union: and in regard that, after the Union, Scotland becoming liable to the same customs and duties payable on import and export, and to the same excises on all exciseable liquors as in England, as well upon that account, as upon the account of the increase of trade and people (which will be the happy consequence of the Union), the said revenues will much improve beyond the before-mentioned annual values thereof, of which no present estimate can be made; yet nevertheless, for the reasons aforesaid, there ought to be a proportionable equivalent answered to Scotland: it is agreed, that, after the Union, there shall be an account kept of the said duties arising in Scotland, to the end it may appear, what ought to be answered to Scotland, as an equivalent, for such proportion of the said increase, as shall be applicable to the payment of the debts of England. And for the further and more effectual answering the several ends hereafter-mentioned; it is agreed, that, from and after the Union, the whole increase of the revenues of customs and duties on import and export, and excise upon exciseable liquors in Scotland, over and above the annual produce of the said respective duties as above stated, shall go and be applied, for the term of seven years, to the uses hereafter-mentioned, and that, upon the said account, there shall be answered to Scotland annually, from the end of seven years after the Union, an equivalent, in proportion to such part of the said increase as shall be applicable to the debts of England; and, generally, that an equivalent shall be answered to Scotland, for such parts of the English debts as Scotland may hereafter become liable to pay by reason of the Union, other than such, for which appropriations have been made by parliament of England, of the customs or other duties on export and import, excises on all exciseable liquors, in respect of which debts, equivalents are herein before provided: and as for the uses, to which the said sum of 398,085*l.* 10*s.* to be granted as aforesaid, and all other monies which are to be answered or allowed to Scotland as said is, are to be applied; it is agreed, that in the first place, out of the foresaid sum, what consideration shall be found necessary to be had for any losses, which private persons may sustain, by reducing the coin of Scotland to the standart and value of the coin of England, may be made good: in the next place, that the capital stock or fund of the African and Indian company of Scotland, advanced, together with the interest for the said capital stock after the rate of 5 per cent. per annum, from the respective times of the payment thereof, shall be payed; upon payment of which capital stock and interest, it is agreed the said company be dissolved and cease; and also, that, from the time of passing the act of parliament in England, for raising the said sum of 398,085*l.* 10*s.*, the said company shall neither trade, nor grant license to trade, providing, that, if the said stock and interest shall not be payed in 12 months after the commencement of the Union, that then the said company may, from thenceforward, trade, or give licence to trade, until the said hail capital stock and interest shall be payed: and as to the overplus of the said sum, of

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398,085*l.* 10*s.*, after payment of what considerations shall be had for losses in repairing the coin, and paying the said capital stock and interest; and also the hail increase of the said revenues of customs, duties and excises above the present value, which shall arise in Scotland, during the said term of seven years, together with the equivalent which shall become due upon the improvement thereof in Scotland after the said term; and also, as to all other sums, which, according to the agreements aforesaid, may become payable to Scotland by way of equivalent, for what that kingdom shall hereafter become liable towards payment of the debt of England; it is agreed, that the same be applied in manner following, viz. That all the public debts of the kingdom of Scotland, as shall be adjusted by this present parliament, shall be payed; and that 2,000*l.* per annum, for the space of 7 years, shall be applied towards encouraging and promoting the manufacture of coarse wool, within these shires which produce the wool, and that the first 2,000*l.* sterling be payed at Martinmass next, and so yearly at Martinmass during the space foresaid; and afterwards, the same shall be wholly applied towards encouraging and promoting the fisheries, and such other manufactures and improvements in Scotland, as may most conduce to the general good of the United Kingdom. And it is agreed, that her majesty be impowered to appoint commissioners, who shall be accountable to the parliament of Great Britain, for disposing the said sum of 398,085*l.* 10*s.* and all other monies which shall arise to Scotland upon the agreements aforesaid, to the purposes before-mentioned; which commissioners shall be impowered to call for, receive, and dispose of the said monies in manner aforesaid, and to inspect the books of the several collectors of the said revenues, and of all other duties from whence an equivalent may arise; and that the collectors and managers of the said revenues and duties be obliged to give to the said commissioners subscribed authentic abbreviates of the produce of such revenues and duties arising in their respective districts; and that the said commissioners shall have their office within the limits of Scotland, and shall in such office keep books, containing accounts of the amount of the equivalents, and how the same shall have been disposed of, from time to time, which may be inspected by any of the subjects who shall desire the same.

XVI. That, from and after the Union, the coin shall be of the same standard and value throughout the United Kingdom, as now in England, and a mint shall be continued in Scotland, under the same rules as the mint in England: And the present officers of the mint continued, subject to such regulations and alterations as her majesty, her heirs or successors, or the parliament of Great Britain, shall think fit.

XVII. That, from and after the Union, the same weights and measures shall be used throughout the United Kingdom, as are now established in England, and standards of weights and measures shall be kept by those boroughs in Scotland, to whom the keeping the standards of weights and measures, now in use there, does of special right belong; all which standards shall be sent down to such respective boroughs, from the standards kept in the Exchequer at Westminster, subject nevertheless to such regulations as the parliament of Great Britain shall think fit.

XVIII. That the laws concerning regulation of trade, customs, and such excises, to which Scotland is, by virtue of this Treaty, to be liable, be the same in Scotland, from and after the Union, as in England; and that all other laws, in use within the kingdom of Scotland, do, after the Union, and notwithstanding thereof, remain in the same force as before (except such as are contrary to, or inconsistent with this Treaty) but alterable by the parliament of Great Britain, with this difference betwixt the laws concerning public right, policy and civil government, and those which concern private right, that the laws which concern public right, policy and civil government may be made the same throughout the whole United Kingdom, but that no alteration be made in laws which concern private right, except for evident utility of the subjects within Scotland.

XIX. That the court of session, or college of justice, do, after the Union, and notwithstanding thereof, remain in all time coming within Scotland, as it is now constituted by the laws of that kingdom, and with the same authority and privileges as before the Union, subject nevertheless to such regulations, for the better administration of justice, as shall be made by the parliament of Great Britain; and that hereafter none shall be named by her majesty, or her royal successors, to be ordinary lords of session, but such who have served in the college of justice as advocates, or principal clerks of session, for the space of five years, or as writers to the signet, for the space of ten years, with this provision, that no writers to the signet be capable to be admitted a lord of the session, unless he undergo a private and public trial on the civil law, before the faculty of advocates, and be found by them qualified for the said office, two years before he be named to be a lord of the session, yet so as the qualifications made or to be made for capacitating persons to be named ordinary lords of session may be altered by the parliament of Great Britain. And that the court of justiciary do also, after the Union, and notwithstanding thereof, remain, in all time coming, within Scotland, as it is now constituted by the laws of that kingdom, and with the same authority and privileges as before the Union, subject nevertheless to such regulations as shall be made by the parliament of Great Britain, and without prejudice of other rights of justiciary: And that all admiralty jurisdictions be under the lord high admiral, or commissioners for the admiralty of Great Britain for the time being;

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and that the court of admiralty now established in Scotland be continued; and that all reviews, reductions or suspensions of the sentences in maritime cases, competent to the jurisdiction of that court, remain in the same manner after the Union as now in Scotland, until the parliament of Great Britain shall make such regulations and alterations as shall be judged expedient for the whole united kingdom; so as there be always continued in Scotland a court of admiralty, such as in England, for determination of all maritime cases relative to private rights in Scotland competent to the jurisdiction of the admiralty court, subject nevertheless to such regulations and alterations as shall be thought proper to be made by the parliament of Great Britain; and that the heretable rights of admiralty, and vice-admiralties in Scotland, be reserved to the respective proprietors, as rights of property, subject nevertheless, as to the manner of exercising such heretable rights, to such regulations and alterations as shall be thought proper to be made by the parliament of Great Britain: and that all other courts, now in being within the kingdom of Scotland, do remain, but subject to alterations by the parliament of Great Britain: and that all inferior courts within the said limits do remain subordinate, as they are now, to the supreme courts of justice within the same, in all time coming; and that no causes in Scotland be cognoscible by the court of Chancery, Queen's bench, Common Pleas, or any other court in Westminster-hall: and that the said courts, or any other of the like nature, after the Union, shall have no power to cognosce, review, or alter the acts or sentences of the judicatures within Scotland, or stop the execution of the same; and that there be a court of Exchequer in Scotland, after the Union, for deciding questions concerning the revenues of customs and excises there, having the same power and authority in such cases, as the court of Exchequer has in England; and that the said court of Exchequer in Scotland have power of passing signatures, gifts, tutories, and in other things, as the court of Exchequer at present in Scotland hath; and that the court of Exchequer that now is in Scotland do remain, until a new court of Exchequer be settled by the parliament of Great Britain in Scotland after the Union: and that, after the Union, the queen's majesty and her royal successors may continue a privy council in Scotland, for preserving of public peace and order, until the parliament of Great Britain shall think fit to alter it, or establish any other effectual method for that end.

XX. That all heretable offices, superiorities, heretable jurisdictions, offices for life, and jurisdictions for life, be reserved to the owners thereof, as rights of property, in the same manner as they are now enjoyed by the laws of Scotland, notwithstanding of this Treaty.

XXI. That the rights and privileges of the royal boroughs in Scotland, as they now are, do remain entire after the Union, and notwithstanding thereof.

XXII. That, by virtue of this Treaty, of the peers of Scotland at the time of the Union, 16 shall be the number to sit and vote in the House of Lords, and 45 the number of the representatives of Scotland in the House of Commons of the parliament of Great Britain: and that, when her majesty, her heirs or successors, shall declare her or their pleasure, for holding the first or any subsequent parliament of Great Britain, until the parliament of Great Britain shall make further provision therein, a writ do issue under the great-seal of the united kingdom, directed to the privy council of Scotland, commanding them to cause 16 peers, who are to sit in the House of Lords, to be summoned to parliament, and 45 members to be elected, to sit in the House of Commons of the parliament of Great Britain, according to the agreement in this Treaty, in such manner as by a subsequent act of this present session of the parliament of Scotland shall be settled; which act is hereby declared to be as valid, as if it were a part of, and ingrossed in, this Treaty; and that the names of the persons, so summoned and elected, shall be returned by the privy council of Scotland, into the court from whence the said writ did issue; and that if her majesty, on or before the 1st day of May next, on which day the Union is to take place, shall declare under the great seal of England, that it is expedient, that the Lords of parliament of England, and Commons of the present parliament of England, shall be the members of the respective houses of the first parliament of Great Britain, for and on the part of England, then the said lords of parliament of England, and Commons of the present parliament of England, shall be the members of the respective Houses of the first parliament of Great Britain, for and on the part of England: and her majesty may, by her royal proclamation under the great-seal of Great Britain, appoint the said first parliament of Great Britain to meet at such time and place as her majesty shall think fit, which time shall not be less than 50 days after the date of such proclamation: and the time and place of the meeting of such parliament being so appointed, a writ shall be immediately issued under the great seal of Great Britain, directed to the privy council of Scotland, for the summoning the 16 peers, and for electing 45 members, by whom Scotland is to be represented in the parliament of Great Britain; and the Lords of parliament of England, and the 16 peers of Scotland, such 16 peers being summoned and returned in the same manner agreed in this Treaty; and the members of the House of Commons of the said parliament of England, and the 45 members for Scotland, such 45 members being elected and returned in the manner agreed in this Treaty, shall assemble and meet respectively in their respective houses of the parliament of Great Britain, at such time and place as shall be so appointed by her majesty, and shall be the two Houses of the first parliament of Great Britain; and that parliament may continue for such time only as the

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present parliament of England might have continued, if the Union of the two kingdoms had not been made, unless sooner dissolved by her majesty. And that every one of the Lords of parliament of Great Britain, and every member of the House of Commons of the parliament of Great Britain, in the first and all succeeding parliaments of Great Britain, until the parliament of Great Britain shall otherways direct, shall take the respective oaths appointed to be taken instead of the oaths of allegiance and supremacy, by an act of parliament made in England, in the first year of the reign of the late king William and queen Mary, intituled, 'An 'act for abrogating of the oaths of Supremacy 'and Allegiance, and appointing other oaths;' and make, subscribe, and audibly repeat, the declaration mentioned in an act of parliament made in England, in the 13th year of the reign of king Charles 2, intituled, 'An act for the 'more effectual preserving the king's person and 'government, by disabling Papists from sitting 'in either Houses of parliament;' and shall take and subscribe the oath mentioned in an act of parliament made in England, in the first year of her majesty's reign, intituled, 'An act 'to declare the alterations in the oath appointed 'to be taken by the act, intituled, An act for 'the further security of his majesty's person, 'and the succession of the crown in the Pro-'testant line, and for extinguishing the hopes 'of the pretended prince of Wales, and all 'other pretenders, and their open and secret 'abettors, and for declaring the association to 'be determined;' at such time, and in such manner as the members of both houses of parliament of England are, by the said respective acts, directed to take, make, and subscribe the same, upon the penalties and disabilities in the said respective acts contained. And it is declared and agreed, that these words, 'This 'realm, the crown of this realm, and the queen 'of this realm,' mentioned in the oaths and declaration contained in the aforesaid acts, which were intended to signify the crown and realm of England, shall be understood of the crown and realm of Great Britain; and that, in that sense, the said oaths and declaration be taken and subscribed by the members of both Houses of the parliament of Great Britain.

XXIII. That the foresaid 16 peers of Scotland, mentioned in the last preceding article, to sit in the House of Lords of the parliament of Great Britain, shall have all privileges of parliament which the peers of England now have, and which they, or any peers of Great Britain shall have after the Union, and particularly the right of sitting upon the trials of peers: and in case of the trial of any peer in time of adjournment or prorogation of parliament, the said 16 peers shall be summoned in the same manner, and have the same powers and privileges at such trial, as any other peers of Great Britain. And that in case any trials of peers shall hereafter happen when there is no parliament in being, the 16 peers of Scotland, who sate in the last preceding parliament shall be summoned in the same manner, and have the same powers and privileges at such trials, as any other peers of Great Britain. And that all peers of Scotland, and their successors to their honours and dignities, shall from and after the Union, be peers of Great Britain, and have rank and precedency next and immediately after the peers of the like orders and degrees in England, at the time of the Union, and before all peers of Great Britain, of the like orders and degrees, who may be created after the Union, and shall be tried as peers of Great Britain, and shall enjoy all privileges of peers as fully as the peers of England do now, or as they or any other peers of Great Britain may hereafter enjoy the same, except the right and privilege of sitting in the House of Lords, and the privileges depending thereon, and particularly the right of sitting upon the trials of peers.

XXIV. That, from and after the Union, there be one great seal for the united kingdom of Great Britain, which shall be different from the great seal now used in either kingdom; and that the quartering the arms, and the rank and precedency of the Lyon king of arms of the kingdom of Scotland, as may best suit the Union, be left to her majesty; and that, in the mean time, the great seal of England be used as the great seal of the united kingdom, and that the great seal of the united kingdom be used for sealing writs to elect and summon the parliament of Great Britain, and for sealing all treaties with foreign princes and states, and all public acts, instruments, and orders of state, which concern the whole united kingdom, and in all other matters relating to England, as the great seal of England is now used; and that a seal in Scotland, after the Union, be always kept and made use of in all things relating to private rights or grants, which have usually passed the great seal of Scotland, and which only concern offices, grants, commissions, and private rights within that kingdom; and that, until such seal shall be appointed by her majesty, the present great seal of Scotland shall be used for such purposes; and that the privy seal, signet, casset, signet of the justiciary court, quarter seal, and seals of court now used in Scotland, be continued; but that the said seals be altered, and adopted to the state of the Union, as her majesty shall think fit: and the said seals, and all of them, and the keepers of them, shall be subject to such regulations as the parliament of Great Britain shall hereafter make: and that the crown, sceptre, and sword of state, the records of parliament, and all other records, rolls and registers whatsoever, both public and private, general and particular, and warrants thereof, continue to be keeped as they are within that part of the united kingdom now called Scotland, and that they shall so remain in all time coming, notwithstanding of the Union.

XXV. That all laws and statutes in either kingdom, so far as they are contrary to, or in-

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consistent with the terms of these Articles, or any one of them, shall, from and after the Union, cease and become void, and shall be so declared to be by the respective parliaments of the said kingdoms.

Follows the tenor of the foresaid Act for securing the Protestant Religion and Presbyterian Church Government.

Our sovereign lady and the estates of parliament considering, That, by the late act of parliament for a Treaty with England, for an Union of both kingdoms, it is provided, that the commissioners for that Treaty should not treat of or concerning any alteration of the worship, discipline, and government of the church of this kingdom, as now by law established: which Treaty being now reported to the parliament, and it being reasonable and necessary, that the true Protestant religion, as presently professed within this kingdom, with the worship, discipline, and government of this church, should be effectually and unalterably secured; therefore her majesty, with advice and consent of the said estates of parliament, doth hereby establish and confirm the said true Protestant religion, and the worship, discipline and government of this church, to continue without any alteration to the people of this land in all succeeding generations; and more especially, her majesty, with advice and consent foresaid, ratifies, approves, and for ever confirms, the fifth act of the first parliament of king William and queen Mary, intituled, 'Act ratifying the Confession of Faith, 'and settling Presbyterian Church Govern-'ment,' with the haill other acts of parliament relating thereto, in prosecution of the Declaration of the Estates of this kingdom, containing the Claim of Right, bearing date the 11th of April, 1689; and her majesty, with advice and consent foresaid, expressly provides and declares, that the foresaid true Protestant religion, contained in the above-mentioned Confession of Faith, with the form and purity of worship presently in use within this church, and its Presbyterian church government and discipline, that is to say, the government of the church by kirk sessions, presbyteries, provincial synods, and general assemblies, all established by the foresaid acts of parliament, pursuant to the Claim of Right, shall remain and continue unalterable; and that the said Presbyterian government shall be the only government of the church within the kingdom of Scotland. And further, for the greater security of the foresaid Protestant religion, and of the worship, discipline, and government of this church as above established, her majesty, with advice and consent foresaid, statutes and ordains, that the universities and colleges of St. Andrew's, Glasgow, Aberdeen, and Edinburgh, as now established by law, shall continue within this kingdom for ever. And that, in all time coming, no professors, principals, regents, masters, or others, bearing office in any university, college or school within this kingdom, be capable, or be admitted or allowed to continue in the exercise of their said functions, but such as shall own and acknowledge the civil government in manner prescribed, or to be prescribed by the acts of parliament. As also, that before, or at their admissions, they do and shall acknowledge and profess, and shall subscribe to the foresaid Confession of Faith, as the Confession of their Faith; and that they will practise and conform themselves to the worship presently in use in this church, and submit themselves to the government and discipline thereof, and never endeavour, directly or indirectly, the prejudice or subversion of the same: and that before the respective Presbyteries of their bounds, by whatsoever gift, presentation, or provision, they may be thereto provided. And further, her majesty, with advice foresaid, expressly declares and statutes, that none of the subjects of this kingdom shall be liable to, but all and every one of them for ever free of any oath, test or subscription within this kingdom, contrary to, or inconsistent with, the foresaid true Protestant religion and Presbyterian church government, worship and discipline as above established; and that the same, within the bounds of this church and kingdom, shall never be imposed upon, or required of them in any sort. And, lastly, that after the decease of her present majesty (whom God long preserve), the sovereign succeeding to her in the royal government of the kingdom of Great Britain shall, in all time coming, at his or her accession to the crown, swear and subscribe, that they shall inviolably maintain and preserve the foresaid settlement of the true Protestant religion, with the government, worship, discipline, right, and privileges of this church, as above established by the laws of this kingdom, in prosecution of the Claim of Right. And it is hereby statute and ordained, that this act of parliament, with the establishment therein contained, shall be held and observed, in all time coming, as a fundamental and essential condition of any Treaty or Union to be concluded betwixt the two kingdoms, without any alteration thereof, or derogation thereto, in any sort, for ever. As also, that this act of parliament, and settlement therein contained, shall be insert and repeated in any act of parliament that shall pass, for agreeing and concluding the foresaid Treaty or Union betwixt the two kingdoms; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said Treaty or Union, in all time coming. Which Articles of Union, and Act immediately above-written, her majesty, with advice and consent foresaid, statutes, enacts, and ordains to be, and continue, in all time coming, the sure and perpetual foundation of a compleat and intire Union of the two kingdoms of Scotland and England, under this express condition and provision, that the approbation and ratification of the foresaid Ar-

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ticles and Act shall be no ways binding on this kingdom, until the said Articles and Act be ratified, approven and confirmed by her majesty, with and by the authority of the parliament of England, as they are now agreed to, approven and confirmed by her majesty, with and by the authority of the parliament of Scotland. Declaring nevertheless, that the parliament of England may provide for the security of the church of England as they think expedient to take place within the bounds of the said kingdom of England, and not derogating from the security above provided, for establishing of the church of Scotland within the bounds of this kingdom. As also, the said parliament of England may extend the additions and other provisions contained in the Articles of Union, as above insert, in favours of the subjects of Scotland, to and in favours of the subjects of England, which shall not suspend or derogate from the force and effect of this present ratification, but shall be understood as herein included, without the necessity of any new ratification in the parliament of Scotland. And, lastly, her majesty enacts and declares, that all laws and statutes in this kingdom, so far as they are contrary to, or inconsistent with, the terms of these Articles as above-mentioned, shall, from and after the Union, cease and become void."

Follows the Exemplification under the Great-Seal of England, of the Act of the Parliament of that Kingdom, intituled, An Act for an UNION *of the two Kingdoms of* ENGLAND *and* SCOTLAND, *as the same was transmitted to the Parliament of Scotland, and ordered to be recorded.*

'Anna, Dei gratia, Anglie, Scocie, Francie, et 'Hibernie regina, Fidei Defensor, &c. Omnibus ad quos presentes litere pervenerint salutem: Inspeximus quoddam breve nostrum de 'certiorand. e cur. Cancellar. nostre nuper 'emanan. dilecto et fideli nostro Matheo Johnson, Armigero, Clerico Parliamentorum nostrorum direct. una cum quodam retorno sive 'indorsamento in dorso ejusdem brevis indorsato 'et inserto in dictam Cancellar. nostram retornatum et in filaciis ib'm de recordo residen. in 'hec verba, Anna, Dei gra. Angl. Scoc. Franc. 'et Hib'nie regina, Fidei Defensor, &c. Dilco. 'sibi Matheo Johnson, Ar. Clico. Parliamentor. 'suor. saltm. Volentes certis de causis certiorari super tenorem cujusdem Actus in instanti Parliamento nostro apud Westm. fact. 'et ordinat. intitulat. "An Act for an Union 'of the two kingdoms of England and Scotland,' 'vobis mandamus quod tenorem Actus predict. 'cum omnibus ill. tangentibus nobis in Cancellar. nram. sub Sigillo vro. distincte et 'aperte sine dilone. mittatis et hoc bre. 'Teste meipa. apud Westm. sexto die Martii 'anno Rni. nri. quinto. Wrighte. Executio 'hujus bris. patet in quadam schedula huic bri. 'annex. prout interius mihi precipitur Math. 'Johnson, Cler. Parliamentor. Inspeximus 'etiam schedulam premenconatum continentem tenorem Actus predict. eidemque brevi 'annex. manu et sigillo Mathei Johnson signat. 'et sigillat. in Cancellar. nram predictiam silit. 'retornat. et in filaciis ibm. de recordo quoq. 'residen. in hec verba: In Parliament. inchoat. apud Westmonaster. decimo quarto 'die Junii, anno Domini millesimo septingentesimo quinto annoque regni serenissime Dne. 'nre. Anne, Dei grat. Angl. Scot. Franc. et 'Hibnie. Regin. Fidei Defensor, &c. quarto, 'communi omniu' Dnor. tam Spialiu' quam 'Temporal. et Communitis, &c. consensu et 'regie Majestatis assensu (inter alia) sancitum 'inactitatum et stabilitum fuit hoc sequens statutum,' viz. "An Act for an Union of the two 'kingdoms of England and Scotland," cujus 'quidem tenor sequitur in his verbis:' Most Gracious Sovereign, Whereas Articles of Union were agreed on the 22nd day of July, in the 5th year of your majesty's reign, by the Commissioners nominated on behalf of the kingdom of England, under your majesty's great seal of England, bearing date at Westminster the 10th of April then last past, in pursuance of an Act of parliament made in England, in the third year of your majesty's reign; and the commissioners nominated on the behalf of the kingdom of Scotland, under your majesty's great seal of Scotland, bearing date the 27th day of February, in the 4th year of your majesty's reign, in pursuance of the fourth Act of the third session of the present parliament of Scotland, to treat of and concerning an Union of the said kingdoms: and whereas an Act hath passed in the parliament of Scotland, at Edinburgh, the 16th day of January, in the fifth year of your majesty's reign, wherein it is mentioned, that the estates of Parliament, considering the said Articles of Union of the two kingdoms, had agreed to and approved of the said Articles of Union, with some additions and explanations: and that your majesty, with advice and consent of the estates of parliament for establishing the Protestant Religion, and Presbyterian Church Government within the kingdom of Scotland, had passed in the same session of parliament, an Act intituled, "Act for securing of the Protestant Religion and Presbyterian Church Government," which, by the tenor thereof, was appointed to be inserted in an Act ratifying the Treaty, and expressly declared to be a fundamental and essential condition of the said Treaty or Union in all times coming, the tenor of which Articles, as ratified and approved of, with additions and explanations, by the said Act of Parliament of Scotland, follows:

Article 1. That the two kingdoms of England and Scotland shall, upon the 1st day of May, which shall be in the year 1707, and for ever after, be united into one kingdom, by the name of Great Britain; and that the ensigns armorial of the said united kingdom be such as her majesty shall appoint, and the crosses of St. George and St. Andrew be conjoined in such manner as her majesty shall think fit, and used in all flaggs, banners, standards, and ensigns, both at sea and land.

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Art. 2. That the succession to the monarchy of the united kingdom of Great Britain, and of the dominions thereto belonging, after her most sacred majesty, and in default of issue of her majesty, be, remain and continue, to the most excellent princess Sophia, electoress and dutchess Dowager of Hanover, and the heirs of her body, being Protestants, upon whom the crown of England is settled by an act of parliament made in England, in the 12th year of the reign of his late majesty king William the 3d, intituled, "An Act for the further limitation of the crown, and better securing the rights and liberties of the subject:" and that all Papists and persons marrying Papists, shall be excluded from and for ever incapable to inherit, possess, or enjoy the imperial crown of Great Britain, and the dominions thereunto belonging, or any part thereof; and, in every such case, the crown and government shall, from time to time, descend to, and be enjoyed by such person, being a Protestant, as should have inherited and enjoyed the same, in case such Papist or person marrying a Papist, was naturally dead, according to provision for the descent of the crown of England, made by another act of parliament in England, in the first year of the reign of their late majesties king William and queen Mary, intituled, 'An Act declaring the rights and liberties of the subject, and settling the succession of the crown.'

Art. 3. That the united kingdom of Great Britain be represented by one and the same parliament, to be styled 'The Parliament of Great Britain.'

Art. 4. That all the subjects of the united kingdom of Great Britain shall, from and after the Union, have full freedom and intercourse of trade and navigation to and from any port or place within the said united kingdom, and the dominions and plantations thereunto belonging; and that there be a communication of all other rights, privileges and advantages, which do or may belong to the subjects of either kingdom, except where it is otherwise expressly agreed in these Articles.

Art. 5. That all ships, or vessels, belonging to her majesty's subjects of Scotland at the time of ratifying the Treaty of Union of the two kingdoms in the parliament of Scotland, though foreign built, be deemed and pass as ships of the built of Great Britain: the owner, or, where there are more owners, one or more of the owners, within 12 months after the 1st of May next, making oath, that at the time of ratifying the Treaty of Union in the parliament of Scotland, the same did, in whole or in part, belong to him or them, or to some other subject or subjects of Scotland, to be particularly named, with the place of their respective abodes; and that the same doth then, at the time of the said deposition, wholly belong to him or them; and that no foreigner, directly or indirectly, hath any share, part, or interest therein; which oath shall be made before the chief officer or officers of the customs, in the port next to the abode of the said owner or owners; and the said officer, or officers, shall be impowered to administer the said oath: and the oath being so administered, shall be attested by the officer or officers, who administered the same; and being registered by the said officer or officers, shall be delivered to the master of the ship, for security of her navigation; and the duplicate thereof shall be transmitted, by the said officer or officers, to the chief officer or officers of the customs in the port of Edinburgh, to be there entered in a register, and from thence be sent to the port of London, to be there entered in the general register of all trading ships belonging to Great Britain.

Art. 6. That all parts of the united kingdom for ever, from and after the Union, shall have the same allowances, encouragements, and drawbacks, and be under the same prohibitions, restrictions, and regulations of trade, and liable to the same customs and duties on import and export; and that the allowances, encouragements and drawbacks, prohibitions, restrictions and regulations of trade, and the customs and duties on import and export, settled in England, when the Union commences, shall, from and after the Union, take place throughout the whole united kingdom, excepting and reserving the duties upon export and import of such particular commodities from which any persons, the subjects of either kingdom, are specially liberated and exempted by their private rights, which, after the Union, are to remain safe and intire to them, in all respects, as before the same; and that, from and after the Union, no Scots cattle carried into England shall be liable to any other duties, either on the public or private accounts, than those duties to which the cattle of England are or shall be liable within the said kingdom. And seeing, by the laws of England, there are rewards granted upon the exportation of certain kinds of grain, wherein oats grinded or ungrinded are not expressed, that, from and after the Union, when oats shall be sold at 15*s.* sterling per quarter, or under, there shall be paid 2*s.* 6*d.* sterling for every quarter of the oatmeal exported in the terms of the law, whereby and so long as rewards are granted for exportation of other grain, and that the bear of Scotland have the same rewards as barley. And in respect the importation of victual into Scotland, from any place beyond sea, would prove a discouragement to tillage, therefore, that the prohibition, as now in force by the law of Scotland, against importation of victuals from Ireland, or any other place beyond sea into Scotland, do, after the Union, remain in the same force as now it is, until more proper and effectual ways be provided by the parliament of Great Britain, for discouraging the importation of the said victuals from beyond sea.

Art. 7. That all parts of the united kingdom be for ever, from and after the Union, liable to the same excises upon all exciseable liquors, excepting only, that the 34 gallons English barrel of beer or ale, amounting to 12 gallons

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Scots present measure, sold in Scotland by the brewer at 9*s.* 6*d.* sterling, excluding all duties, and retailed, including duties and the retailer's profit, at 2*d.* the Scots pint, or eighth part of the Scots gallon, be not, after the Union, liable, on account of the present excise upon exciseable liquors in England, to any higher imposition than 2*s.* sterling upon the foresaid 34 gallons English barrel, being 12 gallons the present Scots measure; and that the excise settled in England on all other liquors, when the Union commences, take place throughout the whole united kingdom.

Art. 8. That, from and after the Union, all foreign salt, which shall be imported into Scotland, shall be charged, at the importation there, with the same duties as the like salt is now charged with, being imported into England, and to be levied and secured in the same manner. But, in regard the duties of great quantities of foreign salt imported may be very heavy upon the merchants importers, that therefore all foreign salt imported into Scotland shall be cellared and locked up under the custody of the merchants importers and the officers employed for levying the duties upon salt; and that the merchant may have what quantity thereof his occasion may require, not under a weigh or 40 bushels at a time, giving security for the duty of what quantity he receives, payable in six months; but Scotland shall, for the space of seven years from the said Union, be exempted from paying in Scotland, for salt made there, the duty or excise now payable for salt made in England, but, from the expiration of the said seven years, shall be subject and liable to the same duties for salt made in Scotland, as shall be then payable for salt made in England, to be levied and secured in the same manner, and with proportionable drawbacks and allowances, as in England; with this exception, that Scotland shall, after the said seven years, remain exempted from the duty of 2*s.* 4*d.* a bushel on home salt, imposed by an act made in England in the ninth and tenth of king William the 3rd of England. And if the parliament of Great Britain shall, at or before the expiring of the said seven years, substitute any other fund in place of the said 2*s.* 4*d.* of excise on the bushel of home salt, Scotland shall, after the said seven years, bear a proportion of the said fund, and have an equivalent in the terms of this Treaty: and that, during the said seven years, there shall be payed in England, for all salt made in Scotland, and imported from thence into England, the same duties upon the importation as shall be payable for salt made in England, to be levied and secured in the same manner as the duties on foreign salt are to be levied and secured in England. And that, after the said seven years, as long as the said duty of 2*s.* 4*d.* a bushel upon salt is continued in England, the said 2*s.* 4*d.* a bushel shall be payable for all salt made in Scotland, and imported into England, to be levied and secured in the same manner; and that, during the continuance of the duty of 2*s.* 4*d.* a bushel upon salt made in England, no salt whatsoever be brought from Scotland to England by land in any manner, under the penalty of forfeiting the salt, and the cattle and carriages made use of in bringing the same, and paying 20*s.* for every bushel of such salt, and proportionably for a greater or lesser quantity; for which the carrier, as well as the owner, shall be liable jointly and severally, and the persons bringing or carrying the same, to be imprisoned by any one justice of the peace by the space of six months, without bail, and until the penalty be payed. And, for establishing an equality in trade, that all flesh exported from Scotland to England, and put on board in Scotland, to be exported to parts beyond the seas, and provision for ships in Scotland, and for foreign voyages, may be salted with Scots salt, paying the same duty for what salt is so employed as the like quantity of such salt pays in England, and under the same penalties, forfeitures and provisions, for preventing of frauds, as are mentioned in the laws of England: And that, from and after the Union, the laws and acts of parliament in Scotland, for pineing, curing, and packing of herrings, white fish, and salmon, for exportation with foreign salt only, without any mixture of British or Irish salt, and for preventing of frauds in curing and packing of fish, be continued in force in Scotland, subject to such alterations as shall be made by the parliament of Great Britain; and that all fish exported from Scotland to parts beyond the seas, which shall be cured with foreign salt only, and without mixture of British or Irish salt, shall have the same eases, premiums, and draw-backs, as are or shall be allowed to such persons as export the like fish from England: and that, for encouragement of the herring fishing, there shall be allowed and payed to the subjects, inhabitants of Great Britain, during the present allowances for other fish, 10*s.* 5*d.* sterling for every barrel of white herrings which shall be exported from Scotland; and that there shall be allowed 5*s.* sterling for every barrel of beef or pork salted with foreign salt, without mixture of British or Irish salt, and exported for sale from Scotland to parts beyond sea, alterable by the parliament of Great Britain. And if any matters of fraud relating to the said duties on salt shall hereafter appear, which are not sufficiently provided against by this Article, the same shall be subject to such further provisions as shall be thought fit by the parliament of Great Britain.

Art. 9. That, whensoever the sum of 1,997,763*l.* 8*s.* 4½*d.* shall be enacted by the parliament of Great Britain, to be raised in that part of the united kingdom now called England, on land, and other things usually charged in acts of parliament there, for granting an aid to the crown by a land tax, that part of the united kingdom now called Scotland shall be charged, by the same act, with a further sum of 48,000*l.* free of all charges, as the quota of Scotland to such tax, and so propor-

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tionally for any greater or lesser sum raised in England by any tax on land, and other things usually charged together with the land; and that such quota for Scotland, in the cases aforesaid, be raised and collected in the same manner as the cess now is in Scotland: but subject to such regulations, in the manner of collecting, as shall be made by the parliament of Great Britain.

Art. 10. That, during the continuance of the respective duties on stampt paper, vellum, and parchment, by the several acts now in force in England, Scotland shall not be charged with the same respective duties.

Art. 11. That, during the continuance of the duties payable in England on windows and lights, which determine on the first day of August, 1710, Scotland shall not be charged with the same duties.

Art. 12. That, during the continuance of the duties payable in England on coals, culm, and cinders, which determines the 30th day of September, 1710, Scotland shall not be charged therewith for coals, culm, and cinders, consumed there; but shall be charged with the same duties as in England for all coal, culm, and cinders not consumed in Scotland.

Art. 13. That, during the continuance of the duty payable in England upon malt, which determines the 24th day of June, 1707, Scotland shall not be charged with that duty.

Art. 14. That the kingdom of Scotland be not charged with any other duties laid on by the parliament of England before the Union, except those consented to in this Treaty, in regard it is agreed, that all necessary provision shall be made by the parliament of Scotland for the public charge and service of that kingdom, for the year 1707; provided, nevertheless, that, if the parliament of England shall think fit to lay any further impositions, by way of customs, or such excises, with which, by virtue of this Treaty, Scotland is to be charged equally with England, in such case, Scotland shall be liable to the same customs and excises, and have an equivalent to be settled by the parliament of Great Britain; with this further provision, that any malt, to be made and consumed in that part of the united kingdom now called Scotland, shall not be charged with any imposition on malt during this present war; and seeing it cannot be supposed that the parliament of Great Britain will ever lay any sort of burdens upon the united kingdom but what they shall find of necessity at that time for the preservation and good of the whole, and with due regard to the circumstances and abilities of every part of the united kingdom; therefore it is agreed, that there be no further exemption insisted upon for any part of the united kingdom; but that the consideration of any exemptions, beyond what are already agreed on in this Treaty, shall be left to the determination of the parliament of Great Britain.

Art. 15. That whereas, by the terms of this Treaty, the subjects of Scotland, for preserving an equality of trade throughout the united kingdom, will be liable to several customs and excises now payable in England, which will be applicable towards payment of the debts of England, contracted before the Union; it is agreed, that Scotland shall have an equivalent for what the subjects thereof shall be so charged towards payment of the said debts of England in all particulars whatsoever, in manner following, viz. That, before the Union of the said kingdoms, the sum of 398,085*l.* 10*s.* be granted to her majesty, by the parliament of England, for the uses after-mentioned, being the equivalent to be answered to Scotland, for such parts of the said customs and excises upon all exciseable liquors, with which that kingdom is to be charged upon the Union, as will be applicable to the payment of the said debts of England, according to the proportions which the present customs in Scotland, being 30,000*l.* per annum, do bear to the customs in England, computed at 1,311,559*l.* per annum, and which the present excises on exciseable liquors in Scotland, being 33,500*l.* per annum, do bear to the excises on exciseable liquors in England, computed at 947,602*l.* per annum, which sum of 398,085*l.* 10*s.* shall be due and payable from the time of the Union: and in regard that, after the Union, Scotland becoming liable to the same customs and duties payable on import and export, and to the same excises on all exciseable liquors as in England, as well upon that account, as upon the account of the increase of trade and people (which will be the happy consequence of the Union), the said revenues will much improve beyond the before-mentioned annual values thereof, of which no present estimate can be made: yet nevertheless, for the reasons aforesaid, there ought to be a proportionable equivalent answered to Scotland; it is agreed, that, after the Union, there shall be an account kept of the said duties arising in Scotland, to the end it may appear what ought to be answered to Scotland as an equivalent for such proportion of the said increase as shall be applicable to the payment of the debts of England. And, for the further and more effectual answering the several ends hereafter-mentioned, it is agreed, that, from and after the Union, the whole increase of the revenues of customs and duties on import and export, and excise upon exciseable liquors in Scotland, over and above the annual produce of the said respective duties as above stated, shall go and be applied, for the term of seven years to the uses hereafter mentioned, and that, upon the said account, there shall be answered to Scotland annually, from the end of seven years after the Union, an equivalent in proportion to such part of the said increase as shall be applicable to the debts of England; and, generally, that an equivalent shall be answered to Scotland for such parts of the English debts as Scotland may hereafter become liable to pay by reason of the Union, other than such for which appropriations have been made by parliament in England, of the customs or other duties on export and import,

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excises on all exciseable liquors, in respect of which debts, equivalents are herein before provided:- and as for the uses, to which the said sum of 398,085*l.* 10*s.* to be granted as aforesaid, and all other moneys which are to be answered or allowed to Scotland as aforesaid, are to be applied; it is agreed, that in the first place, out of the foresaid sum, what consideration shall be found necessary to be had for any losses which private persons may sustain, by reducing the coin of Scotland to the standart and value of the coin of England, may be made good: in the next place, that the capital stock or fund of the African and Indian Company of Scotland advanced, together with the interest for the said capital stock after the rate of five *per cent. per annum*, from the respective times of the payment thereof, shall be payed; upon payment of which capital stock and interest, it is agreed the said Company be dissolved and cease; and also, that, from the time of passing the act of parliament in England, for raising the said sum of 398,085*l.* 10*s.* the said Company shall neither trade, nor grant licence to trade, providing, that, if the said stock and interest shall not be payed in twelve months after the commencement of the Union, that then the said Company may from thenceforward, trade, or give licence to trade, until the said whole capital stock and interest shall be paid: and as to the overplus of the said sum of 398,085*l.* 10*s.* after payment of what considerations shall be had for losses in repairing the coin, and paying the said capital stock and interest, and also the whole increase of the said revenues of customs, duties, and excises, above the present value, which shall arise in Scotland, during the said term of seven years, together with the equivalent which shall become due upon the improvement thereof in Scotland after the said term; and also, as to all other sums, which, according to the agreements aforesaid, may become payable to Scotland by way of equivalent for what that kingdom shall hereafter become liable towards payment of the debt of England; it is agreed, that the same be applied in manner following, viz. That all the public debts of the kingdom of Scotland, as shall be adjusted by this present parliament, shall be payed; and that 2,000*l. per annum*, for the space of seven years, shall be applied towards encouraging and promoting the manufacture of coarse wool within those shires which produce the wool, and that the first 2,000*l.* sterling be payed at Martinmass next, and so yearly at Martinmass during the space foresaid; and, afterwards, the same shall be wholly applied towards the encouraging and promoting the fisheries, and such other manufactures and improvements in Scotland as may most conduce to the general good of the United Kingdom. And it is agreed, that her majesty be impowered to appoint commissioners, who shall be accountable to the parliament of Great Britain, for disposing the said sum of 398,085*l.* 10*s.* and all other moneys which shall arise to Scotland upon the agreements aforesaid, to the purposes before-mentioned, which commissioners shall be impowered to call for, receive, and dispose of, the said moneys in manner aforesaid, and to inspect the books of the several collectors of the said revenues, and of all other duties from whence an equivalent may arise; and that the collectors and managers of the said revenues and duties be obliged to give to the said commissioners subscribed authentic abbreviates of the produce of such revenues and duties arising in their respective districts; and that the said commissioners shall have their office within the limits of Scotland, and shall in such office keep books, containing accounts of the amount of the equivalents, and how the same shall have been disposed of, from time to time, which may be inspected by any of the subjects who shall desire the same.

Art. 16. That, from and after the Union, the coin shall be of the same standart and value throughout the united kingdom as now in England, and a mint shall be continued in Scotland under the same rules as the mint in England; and the present officers of the mint continued, subject to such regulations and alterations as her majesty, her heirs or successors, or the parliament of Great Britain, shall think fit.

Art. 17. That from and after the Union, the same weights and measures shall be used throughout the United Kingdom, as are now established in England: and standarts of weights and measures shall be kept by those burghs in Scotland, to whom the keeping the standarts of weights and measures, now in use there, does of special right belong; all which standarts shall be sent down to such respective burghs, from the standarts kept in the Exchequer at Westminster, subject nevertheless to such regulations as the parliament of Great Britain shall think fit.

Art. 18. That the laws concerning regulation of trade, customs, and such excises, to which Scotland is, by virtue of this Treaty, to be liable, be the same in Scotland, from and after the Union, as in England; and that all other laws, in use within the kingdom of Scotland, do, after the Union, and notwithstanding thereof, remain in the same force as before (except such as are contrary to, or inconsistent with this Treaty), but alterable by the parliament of Great Britain, with this difference betwixt the laws concerning public right, policy, and civil government, and those which concern private right, that the laws which concern public right, policy, and civil government, may be made the same throughout the whole United Kingdom, but that no alteration be made in laws which concern private right, except for evident utility of the subject within Scotland.

Art. 19. That the Court of Session, or College of Justice, do, after the Union, and notwithstanding thereof, remain in all time coming within Scotland as it is now constituted by the laws of that kingdom, and with the same authority and privileges as before the Union,

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subject nevertheless to such regulations, for the better administration of justice, as shall be made by the parliament of Great Britain; and that hereafter none shall be named by her majesty, or her royal successors, to be ordinary lords of session, but such who have served in the college of justice as advocates, or principal clerks of session, for the space of five years, or as writers to the signet, for the space of ten years, with this provision, that no writer to the signet be capable to be admitted a lord of the session, unless he undergo private and public trial on the civil law before the faculty of advocates, and be found by them qualified for the said office, two years before he be named to be a lord of the session, yet so as the qualifications made, or to be made, for capacitating persons to be named ordinary lords of session, may be altered by the parliament of Great Britain. And that the Court of Justiciary do also, after the Union, and notwithstanding thereof, remain, in all time coming, within Scotland, as it is now constituted by the laws of that kingdom, and with the same authority and privileges as before the Union, subject nevertheless to such regulations as shall be made by the parliament of Great Britain, and without prejudice of other rights of justiciary: and that all admiralty jurisdictions be under the lord high admiral, or commissioners for the admiralty, of Great Britain for the time being; and that the court of admiralty now established in Scotland be continued; and that all reviews, reductions, or suspensions of the sentences in maritime cases, competent to the jurisdiction of that court, remain in the same manner after the Union as now in Scotland, until the parliament of Great Britain shall make such regulations and alterations as shall be judged expedient for the whole United Kingdom; so as there be alwise continued in Scotland a court of admiralty, such as in England, for determination of all maritime cases relating to private rights in Scotland competent to the jurisdiction of the admiralty court, subject nevertheless to such regulations and alterations as shall be thought proper to be made by the parliament of Great Britain; and that the heretable rights of admiralty, and vice-admiralties, in Scotland, be reserved to the respective proprietors as rights of property, subject nevertheless, as to the manner of exercising such heretable rights, to such regulations and alterations as shall be thought proper to be made by the parliament of Great Britain: and that all other courts, now in being within the kingdom of Scotland, do remain, but subject to alterations by the parliament of Great Britain: and that all inferior courts within the said limits do remain subordinate, as they are now, to the supreme courts of justice within the same, in all time coming; and that no causes in Scotland be cognoscible by the courts of Chancery, Queen's Bench, Common Pleas, or any other court in Westminster-hall; and that the said courts, or any other of the like nature, after the Union, shall have no power to cognosce, review, or alter the acts or sentences of the judicatures within Scotland, or stop the execution of the same; and that there be a court of Exchequer in Scotland, after the Union, for deciding questions concerning the revenues of customs and excises there, having the same power and authority in such cases as the court of Exchequer has in England; and that the said court of Exchequer in Scotland have power of passing signatures, gifts, tutories, and in other things, as the court of Exchequer at present in Scotland hath; and that the court of Exchequer that now is in Scotland do remain, until a new court of Exchequer be settled by the parliament of Great Britain in Scotland after the Union: And that, after the Union, the queen's majesty and her royal successors may continue a privy council in Scotland, for preserving of public peace and order, until the parliament of Great Britain shall think fit to alter it, or establish any other effectual method for that end.

Art. 20. That all heretable offices, superiorities, heretable jurisdictions, offices for life, and jurisdictions for life, be reserved to the owners thereof, as rights of property, in the same manner as they are now enjoyed by the laws of Scotland, notwithstanding this Treaty.

Art. 21. That the rights and privileges of the royal burghs in Scotland, as they now are, do remain entire after the Union, and notwithstanding thereof.

Art. 22. That, by virtue of this Treaty, of the peers of Scotland at the time of the Union, 16 shall be the number to sit and vote in the House of Lords, and 45 the number of the representatives of Scotland in the House of Commons of the parliament of Great Britain: and that, when her majesty, her heirs or successors, shall declare her or their pleasure for holding the first or any subsequent parliament of Great Britain, until the parliament of Great Britain shall make further provision therein, a writ do issue under the great-seal of the United Kingdom, directed to the privy council of Scotland, commanding them to cause 16 peers, who are to sit in the House of Lords, to be summoned to parliament, and 45 members to be elected to sit in the House of Commons of the parliament of Great Britain, according to the agreement in this Treaty, in such manner as by an act of this present session of the parliament of Scotland is or shall be settled; which act is hereby declared to be as valid as if it were a part of, and ingrossed in, this Treaty; and that the names of the persons, so summoned and elected, shall be returned by the privy council of Scotland into the court from whence the said writ did issue; and that if her majesty, on or before the first day of May next, on which day the Union is to take place, shall declare, under the great-seal of England, that it is expedient, that the Lords of parliament of England, and Commons of the present parliament of England, should be the members of the respective houses of the first parliament of Great Britain, for and on the part of Eng-

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land, then the said Lords of parliament of England, and Commons of the present parliament of England, shall be the members of the respective Houses of the first parliament of Great Britain, for and on the part of England: and her majesty may, by her royal proclamation under the great-seal of Great Britain, appoint the said first parliament of Great Britain to meet at such time and place as her majesty shall think fit, which time shall not be less than 50 days after the date of such proclamation; and the time and place of the meeting of such parliament being so appointed, a writ shall be immediately issued, under the Great Seal of Great Britain, directed to the privy council of Scotland, for the summoning the 16 peers, and for electing 45 members, by whom Scotland is to be represented in the parliament of Great Britain; and the lords of parliament of England, and the 16 peers of Scotland, such 16 peers being summoned and returned in the manner agreed in this Treaty, and the members of the House of Commons of the said parliament of England, and the 45 members for Scotland, such 45 members being elected and returned in the manner agreed in this Treaty, shall assemble and meet respectively in their respective Houses of the parliament of Great Britain, at such time and place as shall be so appointed by her majesty, and shall be the two Houses of the first parliament of Great Britain; and that parliament may continue for such time only as the present parliament of England might have continued, if the Union of the two kingdoms had not been made unless sooner dissolved by her majesty. And that every one of the Lords of parliament of Great Britain, and every member of the House of Commons of the parliament of Great Britain, in the first and all succeeding parliaments of Great Britain, until the parliament of Great Britain shall otherways direct, shall take the respective oaths appointed to be taken, instead of the oaths of allegiance and supremacy, by an act of parliament made in England, in the first year of the reign of the late king William and queen Mary, intituled, "An Act for the abrogating of the oaths of supremacy and allegiance, and appointing other oaths;" and make, subscribe, and audibly repeat, the declaration mentioned in an act of parliament made in England, in the 30th year of the reign of king Charles the 2d, intituled, "An act for the more effectual preserving the king's person and government, by disabling papists from sitting in either house of parliament;" and shall take and subscribe the oath mentioned in an act of parliament made in England, in the first year of her majesty's reign, intituled, "An Act to declare the alterations in this oath appointed to be taken by the act, intituled, An act for the further security of his Majesty's person, and the succession of the crown in the Protestant line, and for extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors, and for declaring the association to be determined;" at such time, and in such manner, as the members of both Houses of parliament of England are, by the said respective acts, directed to take, make, and subscribe the same, upon the penalties and disabilities in the said respective acts contained. And it is declared and agreed, that these words, "This realm, the crown of this realm, and the queen of this realm," mentioned in the oaths and declaration contained in the aforesaid acts, which were intended to signify the crown and realm of England, shall be understood of the crown and realm of Great Britain: and that, in that sense, the said oaths and declaration be taken and subscribed by the members of both Houses of the parliament of Great Britain.

Art. 23. That the foresaid 16 peers of Scotland, mentioned, in the last preceding article, to sit in the House of Lords of the parliament of Great Britain, shall have all privileges of parliament which the peers of England now have, and which they, or any peers of Great Britain, shall have after the Union, and particularly the right of sitting upon the trials of peers: and, in case of the trial of any peer in time of adjournment or prorogation of parliament, the said 16 peers shall be summoned in the same manner, and have the same powers and privileges at such trial, as any other peers of Great Britain. And that in case any trials of peers shall hereafter happen when there is no parliament in being, the 16 peers of Scotland, who sate in the last preceding parliament, shall be summoned in the same manner, and have the same powers and privileges at such trials, as any other peers of Great Britain. And that all peers of Scotland, and their successors to their honours and dignities, shall, from and after the Union, be peers of Great Britain, and have rank and precedency next and immediately after the peers of the like orders and degrees in England, at the time of the Union, and before all peers of Great Britain, of the like orders and degrees, who may be created after the Union, and shall be tried as peers of Great Britain, and shall enjoy all privileges of peers as fully as the peers of England do now, or as they or any other peers of Great Britain may hereafter enjoy the same, except the right and privilege of sitting in the House of Lords, and the privileges depending thereon, and particularly the right of sitting upon the trials of peers.

Art. 24. That, from and after the Union, there be one great-seal for the United Kingdom of Great Britain, which shall be different from the great-seal now used in either kingdom; and that the quartering the arms, and the rank and precedency of the Lyon king of arms, of the kingdom of Scotland, as may best suit the Union, be left to her majesty; and that, in the mean time, the great-seal of England be used as the great-seal of the United Kingdom, and that the great-seal of the United Kingdom be used for sealing writs to elect and summon the parliament of Great Britain, and

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for sealing all treaties with foreign princes and states, and all public acts, instruments, and orders of state, which concern the whole United Kingdom, and in all other matters relating to England, as the great-seal of England is now used; and that a seal in Scotland, after the Union, be always kept and made use of in all things relating to private rights or grants, which have usually passed the great-seal of Scotland, and which only concern offices, grants, commissions, and private rights, within that kingdom; and that, until such seal shall be appointed by her majesty, the present great-seal of Scotland shall be used for such purposes: and that the privy-seal, signet, casset, signet of the Justiciary court, quarter-seal, and seals of courts now used in Scotland, be continued; but that the said seals be altered, and adapted to the state of the Union, as her majesty shall think fit; and the said seals, and all of them, and the keepers of them, shall be subject to such regulations as the parliament of Great Britain shall hereafter make: and that the crown, sceptre, and sword of state, the records of parliament, and all other records, rolls and registers whatsoever, both public and private, general and particular, and warrants thereof, continue to be keeped as they are within that part of the United Kingdom now called Scotland, and that they shall so remain in all times coming, notwithstanding the Union.

Art. 25. That all laws and statutes in either kingdom, so far as they are contrary to, or inconsistent with, the terms of these Articles, or any of them, shall, from and after the Union, cease and become void, and shall be so declared to be, by the respective parliament of the said kingdoms, as by the said Articles of Union ratified and approved by the said act of parliament of Scotland, relation thereunto being had, may appear; and the tenor of the aforesaid act, for securing the Protestant religion and Presbyterian Church Government within the kingdom of Scotland, is as follows:

Our sovereign lady, and the estates of parliament, considering, that, by the late act of parliament for a Treaty with England, for an Union of both kingdoms, it is provided, that the commissioners for that Treaty should not treat of or concerning any alteration of the worship, discipline, and government of the church of this kingdom, as now by law established, which Treaty being now reported to the parliament, and it being reasonable and necessary, that the true Protestant Religion, as presently professed within this kingdom, with the worship, discipline, and government of this church, should be effectually and unalterably secured; therefore her majesty, with advice and consent of the said estates of parliament, doth hereby establish and confirm the said true Protestant religion, and the worship, discipline, and government of this church, to continue without any alteration to the people of this land in all succeeding generations; and more especially, her majesty, with advice and consent aforesaid, ratifies, approves, and for ever confirms, the fifth Act of the first parliament of king William and queen Mary, intituled, "Act for ratifying the Confession of Faith, and settling Presbyterian Church Government," with other Acts of parliament relating thereto, in prosecution of the Declaration of the Estates of this kingdom, containing the Claim of Right, bearing date the 11th of April, 1689; and her majesty, with advice and consent aforesaid, expressly provides and declares, that the foresaid true Protestant religion, contained in the above-mentioned Confession of Faith, with the form and purity of worship presently in use within this Church, and its Presbyterian Church Government and discipline, that is to say, the government of the church by Kirk sessions, Presbyteries, provincial synods, and general assemblies, all established by the foresaid Acts of parliament, pursuant to the Claim of Right, shall remain and continue unalterable; and that the said Presbyterian Government shall be the only government of the church within the kingdom of Scotland. And further, for the greater security of the foresaid Protestant religion, and of the worship, discipline, and government of this church as above established, her majesty, with advice and consent foresaid, statutes and ordains, that the universities and colleges of St. Andrew's, Glasgow, Aberdeen, and Edinburgh, as now established by law, shall continue within this kingdom for ever. And that, in all time coming, no professors, principals, regents, masters, or others, bearing office in any university, college, or school, within this kingdom, be capable, or be admitted or allowed to continue in the exercise of their said functions, but such as shall own and acknowledge the civil government in manner prescribed, or to be prescribed by the acts of parliament. As also, that before, or at their admissions, they do and shall acknowledge and profess, and shall subscribe to the foresaid Confession of Faith, as the Confession of their Faith: and that they will practice and conform themselves to the worship presently in use in this church, and submit themselves to the government and discipline thereof, and never endeavour, directly or indirectly, the prejudice or subversion of the same; and that before the respective Presbyteries of their bounds, by whatsoever gift, presentation, or provision, they may be thereto provided. And further her majesty, with advice aforesaid, expressly declares and statutes, that none of the subjects of this kingdom shall be liable to, but all and every one of them for ever free of any oath, test, or subscription, within this kingdom, contrary to, or inconsistent with, the foresaid true Protestant religion and Presbyterian Church Government, worship, and discipline, as above established; and that the same within the bounds of this church and kingdom, shall never be imposed upon, or required of them in any sort. And, lastly, that, after the decease of her present majesty (whom God long preserve!) the sovereign succeeding to her in the royal government of the kingdom of Great-Britain shall, in all time coming, at

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his or her accession to the crown, swear and subscribe, that they shall inviolably maintain and preserve the foresaid settlement of the true Protestant religion, with the worship, discipline, right, and privileges of this church, as above established by the laws of this kingdom, in prosecution of the Claim of Right. And it is hereby statute and ordained, that this Act of parliament, with the establishment therein contained, shall be held and observed, in all times coming, as a fundamental and essential condition of any Treaty or Union to be concluded betwixt the two kingdoms, without any alteration thereof, or derogation thereto, in any sort, for ever. As also, that this Act of parliament, and settlement therein contained, shall be insert and repeated in any Act of parliament that shall pass, for agreeing and concluding the foresaid Treaty or Union betwixt the two kingdoms; and that the same shall be therein expressly declared to be a fundamental and essential condition of the said Treaty or Union, in all time coming. Which Articles of Union, and Act immediately above-written her majesty, with advice and consent aforesaid, statutes, enacts and ordains to be, and continue, in all time coming, the sure and perpetual foundation of a compleat and intire Union of the two kingdoms of Scotland and England, under the express condition and provision, that the approbation and ratification of the foresaid Articles and Act shall be no ways binding on this kingdom, until the said Articles and Act be ratified, approved, and confirmed, by her majesty, with and by the authority of the parliament of England, as they are now agreed to, approved, and confirmed, by her majesty, with and by the authority of the parliament of Scotland. Declaring nevertheless that the parliament of England may provide for the security of the Church of England as they think expedient, to take place within the bounds of the said kingdom of England, and not derogating from the security above provided, for the establishing of the church of Scotland within the bounds of this kingdom. As also, the said parliament of England may extend the additions and other provisions contained in the Articles of Union, as above insert, in favours of the subjects of Scotland, to and in favours of the subjects of England, which shall not suspend or derogate from the force and effect of this present ratification, but shall be understood as herein included, without the necessity of any new ratification in the parliament of Scotland. And, lastly, her majesty enacts and declares, that all laws and statutes in this kingdom, so far as they are contrary to, or inconsistent with, the terms of these Articles as above-mentioned, shall, from and after the Union, cease and become void.

And whereas an act hath passed in this present session of parliament, intituled, "An act for securing the church of England as by law established," the tenor whereof follows, Whereas, by an act made in the session of parliament held in the 3rd and 4th year of her majesty's reign, whereby her majesty was empowered to appoint commissioners, under the great-seal of England, to treat with commissioners, to be authorised by the parliament of Scotland, concerning an Union of the kingdoms of England and Scotland, it is provided and enacted, that the commissioners to be named in pursuance of the said act should not treat of or concerning any alteration of the liturgy, rites, ceremonies, discipline, or government of the church, as by law established within this realm; and whereas certain commissioners appointed by her majesty, in pursuance of the said act, and also other commissioners, nominated by her majesty, by the authority of the parliament of Scotland, have met and agreed upon a Treaty of Union of the said kingdoms, which Treaty is now under the consideration of this present parliament; and whereas the said Treaty, with some alterations therein made, is ratified and approved by act of parliament in Scotland, and the said act of ratification is by her majesty's royal command laid before the parliament of this kingdom; and whereas it is reasonable and necessary that the true Protestant religion professed and established by law in the church of England, and the doctrine, worship, discipline, and government thereof, should be effectually and unalterably secured; Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and the Commons in this present parliament assembled, and by authority of the same, that an act made in the 13th year of the reign of queen Elizabeth of famous memory, intituled, "An act for the ministers of the church to be of sound religion;" and also another act made in the 13th year of the reign of the late king Charles 2, intituled, "An act for the uniformity of public prayers and administration of sacraments, and other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating bishops, priests, and deacons, in the church of England" (other than such clauses in the said acts, or either of them, as have been repealed or altered by any subsequent act or acts of parliament), and all and singular other acts of parliament now in force, for the establishment and preservation of the church of England, and the doctrine, worship, discipline, and government thereof, shall remain and be in full force for ever. And be it further enacted, by the authority aforesaid, that after the demise of her majesty (whom God long preserve!) the sovereign next succeeding to her majesty in the royal government of the kingdom of Great Britain, and so for ever hereafter every king or queen succeeding and coming to the royal government of the kingdom of Great Britain, at his or her coronation, shall in the presence of all persons who shall be attending, assisting, or otherways then and there present, take and subscribe an oath to maintain and preserve inviolably the said settlement of the church of England, and the doctrine, worship, discipline, and government thereof, as by law established within the king-

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doms of England and Ireland, the dominion of Wales, and town of Berwick upon Tweed, and the territories thereunto belonging. And be it further enacted, by the authority aforesaid, that this act, and all and every the matters and things therein contained, be, and shall for ever be, holden and adjudged to be a fundamental and essential part of any Treaty of Union to be concluded between the said two kingdoms; and also that this act shall be inserted in express terms in any act of parliament which shall be made for settling and ratifying any such Treaty of Union, and shall be therein declared to be an essential and fundamental part thereof. May it, therefore, please your most excellent majesty, that it may be enacted, and be it enacted by the queen's most excellent majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by authority of the same, that all and every the said Articles of Union as ratified and approved by the said act of parliament of Scotland as aforesaid, and herein before particularly mentioned and inserted, and also the said act of parliament of Scotland, for establishing the Protestant religion, and Presbyterian church government, within that kingdom, intituled, "Act for securing the Protestant religion and Presbyterian church government," and every clause, matter, and thing in the said Articles and Act contained, shall be, and the said Articles and Act are hereby for ever ratified, approved, and confirmed. And it is hereby further enacted, by the authority aforesaid, that the said act passed in this present session of parliament, intituled, "An act for securing the church of England as by law established," and all and every the matters and things therein contained, and also the said act of parliament of Scotland, intituled, "Act for securing the Protestant religion and Presbyterian church government," with the establishment in the said act contained, be, and shall for ever be, held and adjudged to be and observed as fundamental and essential conditions of the said Union, and shall in all times coming be taken to be, and are hereby declared to be, essential and fundamental parts of the said Articles and Union: and the said Articles of Union so as aforesaid ratified, approved, and confirmed, by act of parliament of Scotland, and by this present act, and the said act passed in this present session of parliament, intituled, "An act for securing the church of England as by law established," and also the said act passed in the parliament of Scotland, intituled, "Act for securing the Protestant religion and Presbyterian church government," are hereby enacted and ordained to be and continue, in all times coming, the compleat and entire Union of the two kingdoms of England and Scotland.

And whereas, since the passing the said act in the parliament of Scotland for ratifying the said Articles of Union, one other act, intituled, "Act, settling the manner of electing the 16 peers and 45 members to represent Scotland in the parliament of Great Britain," hath likewise passed in the said parliament of Scotland, at Edinburgh, the fifth day of February 1707, the tenor whereof follows: Our sovereign lady considering that, by the 22nd Article of the Treaty of Union, as the same is ratified by an act passed in this session of of parliament, upon the 16th of January last, it is provided, that, by virtue of the said Treaty, of the peers of Scotland, at the time of the Union, 16 shall be the number to sit and vote in the House of Lords, and 45 the number of the representatives of Scotland in the House of Commons, of the parliament of Great Britain; and that the said 16 peers, and 45 members in the House of Commons, be named and chosen in such manner as by a subsequent act in this present session of parliament in Scotland should be settled; which act is thereby declared to be as valid, as if it were a part of, and ingrossed in, the said Treaty; therefore, her majesty, with advice and consent of the estates of parliament, statutes, enacts, and ordains, that the said 16 peers, who shall have right to sit in the House of Peers in the parliament of Great Britain on the part of Scotland, by virtue of this Treaty, shall be named by the said peers of Scotland whom they represent, their heirs, or successors to their dignities and honours, out of their own number, and that by open election and plurality of voices of the peers present, and of the proxies for such as shall be absent, the said proxies being peers, and producing a mandate in writing duly signed before witnesses, and both the constituent and proxy being qualified according to law; declaring also, that such peers as are absent, being qualified as aforesaid, may send to all such meetings lists of the peers whom thye judge fittest, validly signed by the said absent peers, which shall be reckoned in the same manner as if the parties had been present, and given in the said list: and in case of the death, or legal incapacity, of any of the said 16 peers, that the aforesaid peers of Scotland shall nominate another of their own number in place of the said peer or peers in manner before and after mentioned. And that of the said forty-five representatives of Scotland in the House of Commons in the parliament of Great Britain, thirty shall be chosen by the shires or stewartries, and fifteen by the royal boroughs, as follows, viz. one for every shire and stewartry, excepting the shires of Bute and Caithness, which shall choose one by turns, Bute having the first election; the shires of Nairn and Cromarty, which shall also choose by turns, Nairn having the first election; and in like manner the shires of Clackmannan and Kinross shall choose by turns, Clackmannan having the first election: And in case of the death or legal incapacity of any of the said members from the respective shires or stewartries above-mentioned, to sit in the House of Commons; it is enacted and ordained, that the shire or stewartry who elected the said member shall elect another member in his place. And that the said 15 represen-

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tatives for the royal boroughs be chosen as follows, viz. That the town of Edinburgh shall have right to elect and send one member to the parliament of Great Britain: and that each of the other burghs shall elect a commissioner in the same manner as they are now in use to elect commissioners to the parliament of Scotland; which commissioners and burghs (Edinburgh excepted), being divided in 14 classes or districts, shall meet at such time and burghs within their respective districts as her majesty, her heirs or successors, shall appoint, and elect one for each district, viz. the burghs of Kirkwal, Week, Dornock, Dingwall and Tayne, one; the burgh of Fortrose, Inverness, Nairn and Forress, one; the burghs of Elgine, Cullen, Bamff, Inverury and Kintore, one; the burghs of Aberdeen, Inverbervie, Montrose, Aberbrothock and Brichen, one; the burghs of Forfar, Perth, Dundee, Cowper and St. Andrews, one; the burghs of Crail, Kilrennie, Anstruther Easter, Anstruther Wester, and Pittenweem, one; the burghs of Dysart, Kirkcaldie, Kinghorn and Bruntisland, one; the burghs of Innerkeithing, Dumfermline, Queensferry, Culross and Stirling, one; the burghs of Glasgow, Renfrew, Ruglen and Dumbarton, one; the burghs of Haddington, Dunbar, North Berwick, Lawder and Jedburgh, one; the burghs of Selkirk, Peebles, Linlithgow and Lanerk, one; the burghs of Dumfries, Sanquhar, Anman, Lochmaben and Kirkcudbright, one; the burghs of Wigtoun, New Galloway, Stranrawer and Whitehern, one; and the burghs of Air, Irvine, Rothesay, Campbeltoun and Inverary, one. And it is hereby declared and ordained, that where the votes of the commissioners for the said burghs, met to choose representatives from their several districts to the parliament of Great Britain, shall be equal, in that case the president of the meeting shall have a casting or decisive vote, and that by and according to his vote as a commissioner from the burgh from which he is sent, the commissioner from the eldest burgh presiding in the first meeting, and the commissioners from the other burghs in their respective districts presiding afterwards by turns, in the order as the said burghs are now called in the rolls of the parliament of Scotland. And that in case any of the said 15 commissioners from burghs shall decease, or become legally incapable to sit in the House of Commons, then the town of Edinburgh, or the district which choose the said member, shall elect a member in his or their place: It is always hereby expressly provided and declared, that none shall be capable to elect or be elected for any of the said estates but such as are 21 years of age compleat, and Protestant, excluding all Papists, or such who, being suspect of Popery and required, refuse to swear and subscribe the *formula* contained in the third act, made in the eighth and ninth sessions of king William's parliament, intituled, 'Act for preventing the growth of Popery;' and also declaring, that none shall be capable to elect or be elected to represent a shire or burgh in the parliament of Great Britain for this part of the United Kingdom, except such as are now capable by the laws of this kingdom to elect or be elected as commissioners for shires or burghs to the parliament of Scotland. And further, her majesty, with advice and consent aforesaid, for the effectual and orderly election of the persons to be chosen to sit, vote, and serve, in the respective houses of parliament of Great Britain, when her majesty, her heirs or successors, shall declare her or their pleasure for holding the first, or any subsequent parliament of Great Britain, and when for that effect a writ shall be issued out under the great seal of the United Kingdom, directed to the privy council of Scotland, conform to the said 22d Article, statutes, enacts and ordains, That, until the parliament of Great Britain shall make further provision therein, the said writ shall contain a warrant and command to the said privy council to issue out a proclamation in her majesty's name, requiring the peers of Scotland for the time to meet and assemble at such time and place within Scotland as her majesty and royal successors shall think fit, to make election of the said sixteen peers; and requiring the lord clerk register, or two of the clerks of session, to attend all such meetings, and to administer the oaths that are or shall be by law required, and to ask the votes; and, having made up the lists in presence of the meeting, to return the names of the 16 peers chosen (certified under the subscription of the said lord clerk register, clerk or clerks of session attending) to the clerk of the privy council of Scotland; and, in like manner, requiring and ordaining the several freeholders in the respective shires and stewartries to meet and convene at the head burghs of their several shires and stewartries, to elect their commissioners, conform to the order above set down, and ordaining the clerks of the said meetings, immediately after the said elections are over, respectively to return the names of the persons elected to the clerks of the privy council; and, lastly, ordaining the city of Edinburgh to elect their commissioner, and the other royal burghs to elect each of them a commissioner, as they have been in use to elect commissioners to the parliament, and to send the said respective commissioners, at such times, to such burghs within their respective districts as her majesty and successors, by such proclamations, shall appoint; requiring and ordaining the common clerk of the respective burghs, where such elections shall be appointed to be made, to attend the said meetings, and immediately after the election to return the name of the persons so elected (certified under his hand) to the clerk of privy council; to the end that the names of the 16 peers, 30 commissioners for shires, and 15 commissioners for burghs, being so returned to the privy council, may be returned to the court from whence the writ did issue, under the great seal of the United Kingdom, conform to the said 22d Article: And whereas, by the said 22d Article, it is agreed, that if her ma-

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jesty shall, on or before the 1st day of May next, declare that it is expedient the Lords and Commons of the present parliament of England should be the members of the respective Houses of the first Parliament of Great Britain, for and on the part of England, they shall accordingly be the members of the said respective Houses for and on the part of England; her majesty, with advice and consent aforesaid, in that case only, doth hereby statute and ordain, that the 16 peers and 45 commissioners for shires and burghs, who shall be chosen by the peers, barons and burghs, respectively, in this present session of parliament, and out of the members thereof, in the same manner as committees of parliament are usually now chosen, shall be the members of the respective Houses of the said first parliament of Great Britain for and on the part of Scotland; which nomination and election being certified by a writ under the lord clerk register's hand, the persons so nominated and elected shall have right to sit and vote in the House of Lords, and in the House of Commons, of the said first parliament of Great Britain, as by the said act passed in Scotland for settling the manner of electing the 16 peers and 45 members to represent Scotland in the parliament of Great Britain may appear; be it therefore further enacted and declared, by the authority aforesaid, that the said last-mentioned act passed in Scotland for settling the manner of electing the 16 peers and 45 members to represent Scotland in the parliament of Great Britain, as aforesaid, shall be, and the same is hereby declared to be, as valid as if the same had been part of, and ingrossed in, the said Articles of Union, ratified and approved by the said act of parliament of Scotland, and by this act as aforesaid. Ego Matheus Johnson Armiger Clericus Parliamentor. virtute brevis dict. Domine Regine de certiorand. mihi direct. & his annex. Certifico superius hoc scriptum verum esse tenorum actus Parliamenti supradict. in eo brevi expressi. In cujus rei testimonium huic schedule sigillum meum apposui, nomenque meum subscripsi. Dat. septimo die Martii anno regni dicte Domine Regine quinto, annoque Domini millesimo septingentesimo sexto. Math. Johnson. Nos autem separales tenores brevis retorn. & actus predict. duximus exemplificand. per presentes. In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste meipsa apud Westmonaster. septimo die Martii anno regni nostri quinto.

WRIGHTE.

N° III.

List of Public Acts, passed during the Reign of Queen Anne.

Anno 1 *Annæ.*

7. AN Act for the better support of her majesty's houshold, and of the honour and dignity of the crown. 8. For explaining a clause in an act made at the parliament begun and holden at Westminster, the 22nd of November in the 7th year of the reign of our sovereign lord king William the Third, intituled, An act for the better security of his majesty's royal person and government. 9. For continuing the act made in the 8th year of his late majesty's reign, for better preventing the counterfeiting the current coin of this kingdom. 10. For taking, examining and stating the public accounts of the kingdom. 11. For reviving the act, intituled, An act for exempting apothecaries from serving the offices of constable, scavenger, and other parish and ward offices, and from serving upon juries. 12. For granting an aid to her majesty, by divers subsidies and a land-tax. 13. For making good deficiencies, and for preserving the public credit. 14. For enabling her majesty to appoint commissioners to treat for an Union between the kingdoms of England and Scotland. 15. To ascertain the water-measure of fruit. 16. For the enlarging and encouraging the Greenland trade. 17. For continuing and amending the act made in the 9th year of his late majesty's reign, intituled, An act for the settling and adjusting the proportions of fine silver and silk, and for the better making of gold and silver thread, and to prevent the abuses of wire-drawers. 18. To explain and alter the act made in the 22nd year of king Henry the Eighth, concerning repairing and amending of bridges in the highways; and for repealing an act made in the 23rd year of queen Elizabeth, for the re-edifying of Cardiffe bridge in the county of Glamorgan; and also for changing the day of election of the wardens and assistants of Rochester bridge. 19. For the rebuilding and repairing the piers of the town and port of Whitby in the county of York. 20. For making the river Derwent, in the county of York, navigable. 21. For preventing frauds in the duties upon salt, and for the better payment of debentures at the custom-house. 22. To declare the alterations in the oath appointed to be taken by the act, intituled, An act for the further security of his majesty's person, and the succession of the crown in the protestant line; and for extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors; and for declaring the association to be determined. 23. For raising the militia for the year 1702, notwithstanding the month's pay formerly advanced be

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not repaid. 24. For the continuing the present sheriffs in England and Wales, until the 1st day of Hilary term next, unless her majesty shall think fit to determine them sooner. 25. For the relief of poor prisoners for debt. 26. For the relief of the masters of boys, and other vessels carrying corn, and other inland provisions within the port of London. 27. For the importation of fine Italian thrown silk. 28. For importing into England thrown silk of the growth of Sicily, from the port of Leghorne in Italy. 29. For the continuing the imprisonment of Counter, and others, for the horrid conspiracy to assassinate the person of his late sacred majesty king William the Third. 30. To oblige the Jews to maintain and provide for their protestant children. 31. For making more effectual the provision out of the forfeited estates in Ireland, for the building of churches, and augmenting small vicarages in Ireland. 32. For the relief of the protestant purchasers of the forfeited estates in Ireland.

1 *Annæ, Stat.* 2. 1. For granting to her majesty a land-tax for carrying on the war against France and Spain. 2. For enabling her majesty to settle a revenue for supporting the dignity of his royal highness prince George hereditary of Denmark, in case he shall survive her majesty. 3. For granting a supply to her majesty by several duties imposed upon malt, mum, cyder, and perry. 4. For continuing the duties upon coals, culm, and cinders. 5. For granting an aid to her majesty by sale of several annuities at the exchequer, for carrying on the war against France and Spain. 6. For the better preventing escapes out of the Queen's Bench and Fleet prisons. 7. For explaining and making effectual a late statute concerning the haven and piers of the borough of Great Yarmouth, and for confirming the rights and privileges of the said borough. 8. For explanation of a clause in one act made in the 7th year of his late majesty's reign, relating to borelaps, and to take off the additional subsidy upon Irish linen. 9. For punishing of accessaries to felonies, and receivers of stolen goods, and to prevent the wilful burning and destroying of ships. 10. For the better repairing and amending the highways from the north end of Thornwood Common, to Woodford in the county of Essex. 11. For making the river Cham alias Grant, in the county of Cambridge, more navigable, from Clayhithe Ferry to the Queen's Mill, in the university and town of Cambridge. 12. For the finishing and adorning the cathedral church of St. Paul, London. 13. For continuing former acts for exporting leather, and for ease of jurors, and for reviving and making more effectual an act relating to vagrants. 14. For the encouraging the consumption of malted corn, and for the better preventing the running of French and foreign brandy. 15. For granting to her majesty several subsidies for carrying on the war against France and Spain. 16. For punishing officers and soldiers who shall mutiny or desert her majesty's service in England or Ireland, and for punishing false musters, and for better payment of quarters in England. 17. For enlarging the time for taking the oath of abjuration; and also for recapacitating and indemnifying such persons as have not taken the same by the time limited, and shall take the same by a time to be appointed; and for the further security of her majesty's person, and the succession of the crown to the protestant line; and for extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors. 18. For the more effectual preventing the abuses and frauds of persons employed in the working up the woollen, linen, fustian, cotton, and iron manufactures of this kingdom. 19. For taking, examining, and stating the public accounts of the kingdom. 20. For reviving and continuing the late acts for appointing commissioners to take, examine, and determine the debts due to the army, and for transport service, and also an account of the prizes taken during the late war. 21. For advancing the sale of the forfeited estates in Ireland, and for vesting such as remain unsold by the present trustees, in her majesty, her heirs and successors, for such uses as the same were before vested in the said trustees; and for the more effectual selling and settling the said estates to Protestants; and for explaining several acts relating to the lord Bophin, and sir Edmund Everard. 22. For preventing frauds in her majesty's duties upon stamped vellum, parchment and paper. 23. For raising the militia of this kingdom for the year 1703, notwithstanding the month's pay formerly advanced be not repaid. 24. To oblige Edward Whitacre, to account for such sums of public money as have been received by him.

2 *Annæ.* 1. For granting an aid to her majesty by a land tax, to be raised in the year 1704. 2. For granting an aid to her majesty, by continuing the duties upon malt, mum, cyder and perry, for one year. 3. For granting an aid to her majesty, for carrying on the war, and other her majesty's occasions, by selling annuities at several rates, and for such respective terms or estates as are therein mentioned. 4. For the public registering of all deeds, conveyances and wills, that shall be made of any honours, manors, lands, tenements, or hereditaments, within the West Riding of the county of York, after the 29th of September, 1704. 5. To repeal a proviso in an act of the fourth year of the reign of king William and queen Mary, which prevents the citizens of the city of York from disposing of their personal estates by their wills, as others inhabiting within the province of York by that act may do. 6. For the increase of seamen, and better encouragement of navigation, and security of the coal trade. 7. For enlarging the term of years granted by an act passed in the session of parliament, held in the 11th and 12th years of king William 3, for the repair of Dover harbour. 8. For the erecting a workhouse in the city of Worcester, and for setting the poor on

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work there. 9. For granting to her majesty an additional subsidy of tunnage and poundage for three years; and for laying a further duty upon French wines condemned as lawful prize; and for ascertaining the values of unrated goods imported from the East Indies. 10. To enlarge the time for the purchasers of the forfeited estates in Ireland, to make the payments of their purchase-money. 11. For the making more effectual her majesty's gracious intentions for the augmentation of the maintenance of the poor clergy, by enabling her majesty to grant in perpetuity the revenues of the first fruits and tenths; and also for enabling any other persons to make grants for the same purpose. 12. For the raising the militia for the year 1704, notwithstanding the month's pay formerly advanced be not repaid. 13. For prolonging the time by an act of parliament made in the first year of her majesty's reign, for importing thrown silk of the growth of Sicily from Leghorn. 14. For the better securing and regulating the duties upon salt. 15. For the better and more regular paying and assigning the annuities, after the rate of 3*l.* per cent. per ann. payable to several bankers, and other patentees, or those claiming under them. 16. For the discharging out of prison such insolvent debtors as shall serve, or procure a person to serve, in her majesty's fleet or army. 17. For the better charging several accountants with interest monies by them received, and to be received. 18. For the further explanation and regulation of privilege of parliament in relation to persons in public offices. 19. For raising recruits for the land forces and marines, and for dispensing with part of the act for the encouragement and increase of shipping and navigation, during the present war. 20. For punishing mutiny, desertion, and false musters, and for better paying of the army and quarters, and for satisfying divers arrears, and for a further continuance of the powers of the five commissioners for examining and determining the accounts of the army.

3 *et* 4 *Annæ.* 1. For granting an aid to her majesty, by a land tax, to be raised in the year 1705. 2. For raising monies by sale of several annuities, for carrying on the present war. 3. For continuing the duties upon malt, mum, cyder and perry, for one year. 4. For continuing duties upon low wines and upon coffee, tea, chocolate, spices and pictures, and upon hawkers, pedlars, and petty chapmen, and upon muslins; and for granting new duties upon several of the said commodities, and also upon callicoes, china ware and drugs. 5. For granting to her majesty a further subsidy on wines and merchandize imported. 6. For the better enabling her majesty to grant the honour and manor of Woodstock, with the hundred of Wootton, to the duke of Marlborough and his heirs, in consideration of the eminent services by him performed to her majesty and the public. 7. For the effectual securing the kingdom of England from the apparent dangers that may arise from several acts lately passed in the parliament of Scotland. 8. To permit the exportation of Irish linen cloth to the plantations, and to prohibit the importation of Scotch linen into Ireland. 9. For giving like remedy upon promissory notes, as is now used upon bills of exchange, and for the better payment of inland bills of exchange. 10. For encouraging the importation of naval stores from her majesty's plantations in America. 11. For the better recruiting her majesty's land forces and the marines, for the year 1705. 12. For the relief of the creditors of Thomas Pitkin, a bankrupt, and for the apprehending of him, and the discovery of the effects of the said Thomas Pitkin and his accomplices. 13. For prohibiting all trade and commerce with France. 14. To prevent all traiterous correspondence with her majesty's enemies. 15. For the relief of Fulke Emes, gent. and others, who had elapsed their times, either for paying their money, or naming their nominees for purchasing annuities; and also for relief of sir John Mead, knight and baronet, who had elapsed his time for paying part of his purchase-money for a forfeited estate in Ireland, and also for relief of Dorothy Ireland and others, in respect of several tickets for payment of annuities, and of several million lottery and malt lottery tickets, and Exchequer bills, and debentures to army, which have been burnt or lost. 16. For punishing mutiny and desertion, and false musters; and for the better payment of the army and their quarters. 17. For raising the militia for the year 1705, although the month's pay formerly advanced be not repaid. 18. For making perpetual an act for the more easy recovery of small tithes; and also an act for the more easy obtaining partition of lands in coparcenary, jointenancy, and tenancy in common; and also for making more effectual and amending several acts relating to the return of jurors.

4 *et* 5 *Annæ.* 1. For exhibiting a bill in this present parliament, for naturalizing the most excellent princess Sophia, electress and duchess dowager of Hanover, and the issue of her body. 2. For granting an aid to her majesty by a land tax to be raised in the year 1706. 3. To repeal several clauses in the statute made in the third and fourth years of her present majesty's reign, for securing the kingdom of England from several acts lately passed in the parliament of Scotland. 4. For the naturalization of the most excellent princess Sophia, electress and duchess dowager of Hanover, and the issue of her body. 5. For continuing the duties upon malt, mum, cyder and perry, for the service of the year 1706. 6. For continuing an additional subsidy of tonnage and poundage, and certain duties upon coals, culm, and cinders, and additional duties of excise, and for settling and establishing a fund thereby, and by other ways and means, for payment of annuities, to be sold for raising a further supply to her majesty, for the service of the year 1706, and other uses therein mentioned. 7. For making the town of New Ross, in the county of Wexford in the kingdom of Ireland, a port for the

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exporting of wool from Ireland into this kingdom. 8. For the better security of her majesty's person and government, and of the succession to the crown of England in the Protestant line. 9. For repairing the highways between Barnhill and Hatton Heath, in the county of Chester. 10. For the better recruiting her majesty's army and marines. 11. For continuing an act made in the session held in the third and fourth years of her majesty's reign, intituled, An Act for punishing mutiny and desertion, and false musters, and for the better payment of the army and quarters. 12. For laying further duties on low wines, and for preventing the damage to her majesty's revenue by importation of foreign cut whalebone; and for making some provisions as to the stamp duties, and the duties on births, burials and marriages, and the salt duties, and touching million lottery tickets, and for enabling her majesty to dispose the effects of William Kidd, a notorious pirate, to the use of Greenwich Hospital, and for appropriating the public monies granted in this session of parliament. 13. For the better ordering and governing the watermen and lightermen upon the river of Thames. 14. For the better collecting charity money on briefs, by letters patent, and preventing abuses in relation to such charities. 15. For making the river Stower navigable, from the town of Manningtree in the county of Essex, to the town of Sudbury in the county of Suffolk. 16. For the amendment of the law, and the better advancement of justice. 17. To prevent frauds frequently committed by bankrupts. 18. For enlarging the pier and harbour of Parton in the county of Cumberland. 19. For the encouragement and increase of seamen, and for the better and speedier manning her majesty's fleet. 20. For the better enabling the master, wardens and assistants of Trinity House, to rebuild the light-house on the Eddystone rock. 21. For the increase and better preservation of salmon and other fish, in the rivers within the counties of Southampton and Wilts. 22. To empower the lord high treasurer, or commissioners of the treasury, to issue out of the monies arising by the coinage duty, any sum not exceeding 500*l.*, over and above the sum of 3,000*l.* yearly, for the uses of the mint. 23. For raising the militia for the year 1706, notwithstanding the month's pay formerly advanced be not repaid; and for an account to be made of trophy monies. 24. To enlarge the time for registering unsatisfied debentures upon the forfeited estates in Ireland, and for renewing of other debentures, which have been lost, burnt or destroyed. 25. For the paying and clearing the several regiments commanded by lieutenant general Stewart, col. Hill, and brigadier Holt, and for supplying the defect of the muster rolls of those and several other regiments. 26. For making effectual a grant of their late majesties king William and queen Mary, of the town and lands of Sea Town to the archbishopric of Dublin, and for restoring the same to the said see. 27. For the impropriate tithes of the parish of St. Bridget alias Bride's, London.

5 *Annæ.* 1. For granting an aid to her majesty by a land tax, to be raised in the year 1707. 2. For continuing the duties upon malt, mum, cyder and perry, for the service of the year 1707. 3. For the settling of the honours and dignities of John duke of Marlborough upon his posterity, and annexing the honour and manor of Woodstock, and house of Blenheim, to go along with the said honours. 4. For settling upon John duke of Marlborough and his posterity, a pension of 5,000*l.* per annum, for the more honourable support of their dignities, in like manner as his honours and dignities, and the honour and manor of Woodstock, and house of Blenheim, are already limited and settled. 5. For securing the church of England as by law established. 6. For repealing a clause in an act, intituled, An Act for the better apprehending, prosecuting, and punishing felons that commit burglaries, housebreaking, or robberies in shops, warehouses, coach-houses, or stables, or that steal horses. 7. For regulating and ascertaining the duties to be paid by the unfreemen importers of coals into the port and borough of Great Yarmouth, in the county of Norfolk. 8. For an Union of the two kingdoms of England and Scotland. 9. For rendering more effectual an act passed in the first year of her majesty's reign, intituled, An Act for the better preventing escapes out of the Queen's-bench and Fleet prisons. 10. For repairing the highway between Hockliffe and Woborne, in the county of Bedford. 11. For continuing the acts formerly made for repairing of the highways in the county of Hertford. 12. For the enlarging the passage leading to New Palace Yard through the Gatehouse, Westminster. 13. For continuing the duties upon houses, to secure a yearly fund for circulating Exchequer bills, whereby a sum not exceeding 1,500,000*l.* is intended to be raised, for carrying on the war, and other her majesty's occasions. 14. For the better preservation of the game. 15. For the better recruiting her majesty's land forces and the marines, for the year 1707. 16. For continuing an act made in the third and fourth years of her majesty's reign, intituled, An Act for punishing mutiny and desertion, and false musters, and for the better payment of the army and quarters. 17. To repeal all the laws prohibiting the importation of foreign lace made with thread. 18. For enrolments of bargains and sales within the West Riding of the county of York, in the register office there lately provided; and for making the said register more effectual. 19. For continuing the duties upon low wines, and spirits of the first extraction, and the duties payable by hawkers, pedlars and petty chapmen, and part of the duties on stamped vellum, parchment and paper, and the late duties on sweets, and the one third subsidy of tonnage and poundage, and for settling and establishing a fund thereby, and by the application of certain overplus monies, and otherwise, for pay-

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ment of annuities, to be sold for raising a further supply to her majesty, for the service of the year 1707, and other uses therein expressed. 20. For the better encouragement of the royal lustring company. 21. For repairing the highway between Fornhill in the county of Bedford, and the town of Stony Stratford in the county of Buckingham. 22. To explain and amend an act of the last session of parliament for preventing frauds frequently committed by bankrupts. 23. To subject the estate of Thomas Brerewood to the creditors of Thomas Pitkin, notwithstanding any agreement or composition made by the creditors of the said Thomas Pitkin. 24. For discharging small livings from their first fruits and tenths, and all arrears thereof. 25. For making the acts more effectual for appropriating the forfeited impropriations in Ireland, for the building of churches, and augmenting poor vicarages there. 26. For repairing the highways between Shepherds-Shord and the Devizes, and between the top of Ashlinton Hill and Rowd Ford, in the county of Wilts. 27. For continuing several subsidies, impositions and duties, and for making provisions therein mentioned, to raise money by way of loan for the service of the war, and other her majesty's necessary and important occasions; and for ascertaining the wine measure. 28. For raising the militia for the year 1707, notwithstanding the month's pay formerly advanced be not repaid; and for an account to be made of trophy money. 29. For ease of her majesty's subjects in relation to the duties upon salt, and for making the like allowances upon the exportation of white herrings, flesh, oatmeal, and grain called beer alias bigg, and are to be made upon exportation of the like from Scotland. 30. For the better securing her majesty's purchase of Cotton House in Westminster. 31. For the encouraging the discovery and apprehending of house-breakers. 32. For the continuing the laws for the punishment of vagrants, and for making such laws more effectual. 33. For obliging John Rice to account for debentures granted to him in the last session of parliament. 34. For continuing the laws therein mentioned relating to the poor, and to the buying and selling of cattle in Smithfield, and for suppressing of piracy.

6 *Annæ.* 1. For granting an aid to her majesty, to be raised by a land tax in Great Britain, for the service of the year 1708. 2. For repealing and declaring the determination of two acts passed in the parliament of Scotland, the one intituled, Act for the security of the kingdom; the other, Act anent peace and war. 3. For the better securing the duties of East India goods. 4. For charging and continuing the duties upon malt, mum, cyder and perry, for the service of the year 1708. 5. For raising a further supply to her majesty, for the service of the year 1708, and other uses, by sale of annuities charged on a fund not exceeding 40,000*l.* per annum, to arise by appropriating several surplusses, and by granting further terms in the duties on low wines, and on hawkers, pedlars and petty chapmen, the stamp duties, the one third subsidy, the duty on sweets, and one of the branches of excise, and by making other provision in this act mentioned. 6. For rendering the Union of the two kingdoms more entire and complete. 7. For the security of her majesty's person and government, and of the succession to the crown of Great Britain in the Protestant line. 8. For encouraging the dressing and dying of woollen cloths within this kingdom, by laying a duty upon broad cloth exported white. 9. For the exportation of white woollen cloth. 10. For the better recruiting her majesty's land forces and the marines, for the service of the year 1708. 11. For continuing one half part of the subsidies of tonnage and poundage, and other duties upon wines, goods and merchandises imported, which were granted to the crown in the twelfth year of the reign of king Charles 2, and for settling a fund thereby, and by other ways and means, for payment of annuities, not exceeding 30,000*l.* per annum, to be sold for raising a further supply to her majesty, for the service of the year 1708, and other uses therein expressed. 12. To explain the act of the last session of parliament, for the ease of her majesty's subjects in relation to allowances out of the duties upon salt carried coastwise, and also an act of the first year of her majesty's reign, in relation to certain salt-works near the sea-side and bay of Holyhead in the county of Anglesea. 13. For the better securing the trade of this kingdom by cruisers and convoys. 14. For the better security of her majesty's person and government. 15. To empower her majesty to secure and detain such persons as her majesty shall suspect are conspiring against her person and government. 16. For repealing the act of the first year of king James 1, intituled, An Act for the well garbling of spices; and for granting an equivalent to the city of London, by admitting brokers. 17. For assuring to the English company trading to the East Indies, on account of the united stock, a longer time in the fund and trade therein mentioned, and for raising thereby the sum of 1,200,000*l.* for carrying on the war, and other her majesty's occasions. 18. For the more effectual discovery of the death of persons pretended to be alive, to the prejudice of those who claim estates after their deaths. 19. For continuing the half subsidies therein mentioned, with several impositions and other duties, to raise money by way of loan, for the service of the war, and other her majesty's necessary and important occasions, and for charging of prize goods and seizures, and for taking off the drawbacks of foreign cordage, and to obviate the clandestine importation of wrought silks. 20. For continuing an act made in the third year of her majesty's reign, intituled, An Act for punishing mutiny and desertion, and for false musters, and for the better payment of the army and quarters. 21. For the avoiding of doubts and questions touching the statutes of divers cathe-

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dral and collegiate churches. 22. For continuing several duties therein mentioned, upon coffee, chocolate, spices, pictures, and muslins, and additional duties upon several of the said commodities, and certain duties upon callicoes, china wares and drugs; and for continuing the duties called the two third subsidies of tonnage and poundage; for preserving the public credit; and for ascertaining the duties of coals exported for foreign parts; and for securing the credit of the bank of England; and for passing several accounts of taxes raised in the county of Monmouth; and for promoting the consumption of such tobacco as shall have paid her majesty's duties. 23. To make further provision for electing and summoning sixteen peers of Scotland, to sit in the house of peers in the parliament of Great Britain; and for trying peers for offences committed in Scotland; and for the further regulating of votes in election of members to serve in parliament. 24. For the further directing the payment of the equivalent money. 25. To enable her majesty to make leases and copies of offices, lands and hereditaments, parcel of her dutchy of Cornwall, or annexed to the same. 26. For settling and establishing a court of exchequer in the north part of Great Britain, called Scotland. 27. To enlarge the time for returning the certificates of all ecclesiastical livings, not exceeding the yearly value of 50*l.*; as also for discharging all livings of that value from the payment of first fruits; and for allowing time to archbishops and bishops, and other dignitaries, for payment of their first fruits. 28. For continuing the act for ascertaining the tithes of hemp and flax. 29. To repeal a clause in an act of the seventh year of the reign of his late majesty, (for amending and repairing the highways) which enjoins waggoners and others to draw with a pole between the wheel horses, or with double shafts, and to oblige them to draw only with six horses, or other beasts, except up hills. 30. For ascertaining the rates of foreign coins in her majesty's plantations in America. 31. For the better preventing mischiefs that may happen by fire. 32. For regulating the qualifications of the electors of the governor, deputy governor, or directors, and voters of the governor and company of the Bank of England. 33. For the importation of cochineal from any ports in Spain, during the present war, and six months longer. 34. For limiting a time to persons to come in and make their claims to any of the forfeited estates and other interests in Ireland, sold by the trustees for sale of those estates to the governor and company for making hollow sword blades in England, and divers other purchasers. 35. For the public registering of all deeds, conveyances, wills and other incumbrances that shall be made of, or that may affect any honours, manors, lands, tenements or hereditaments, within the East Riding of the county of York, or the town and county of the town of Kingston upon Hull, after the 29th of September, 1708; and for the rendering the register in the West Riding more compleat.

36. For raising the militia of this kingdom for the year 1708, although the month's pay formerly advanced be not repaid. 37. For the encouragement of the trade to America.

7 *Annæ.* 1. For granting an aid to her majesty to be raised by a land tax in Great Britain, for the service of the year 1709. 2. For the speedy and effectual recruiting her majesty's land forces and marines, for the service of the year 1709. 3. For charging and continuing the duties upon malt, mum, cyder and perry, for the service of the year 1709. 4. For punishing mutiny and desertion, and false musters, and for the better payment of the army and quarters. 5. For naturalizing foreign Protestants. 6. For explaining and making more effectual that part of an act passed in the fifth year of her present majesty's reign, concerning the buying and selling of cattle in Smithfield, and for giving leave for bringing up calves dead to London, as formerly. 7. For enlarging the capital stock of the Bank of England, and for raising a further supply to her majesty, for the year 1709. 8. For continuing several impositions and duties, to raise money by way of loan; and for exporting British copper and brass wire, duty free; and for circulating a further sum in Exchequer bills, in case a new contract be made in that behalf; and concerning the oaths to be administered in relation to Italian thrown silks; and touching oils and plantation goods of foreigners, taken or to be taken as prize; and concerning drugs of America, to be imported from her majesty's plantations; and for appropriating the monies given in this session of parliament; and for making out debentures for two transport ships in this act named; and to allow a further time for registering certain debentures; and for relief of persons who have lost such tickets, Exchequer bills, debentures, tallies or orders, as in this act are mentioned. 9. For giving the commissioners of sewers for the city of London, the same powers as the commissioners of sewers for counties have; and to oblige collectors for the sewers to account. 10. For rendering more effectual the laws concerning commissioners of sewers. 11. For ascertaining and directing the payment of the allowances to be made for or upon the exportation from Scotland of fish, beef, and pork, cured with foreign salt, imported before May 1, 1707, and for disposing such salt still remaining in the hands of her majesty's subjects there, and for ascertaining and securing the allowances for fish and flesh exported and to be exported from Scotland, for the future. 12. For preserving the privileges of ambassadors, and other public ministers of foreign princes and states. 13. For the better ascertaining the lengths and breadths of woollen cloth made in the county of York. 14. For the better preservation of parochial libraries in that part of Great Britain called England. 15. For altering Whitsuntide and Lammas terms for the court of Exchequer in Scotland. 16. To prevent the laying of wagers relating to the public. 17. For making more

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effectual an act made in the sixth year of her majesty's reign, for the better preventing of mischiefs that may happen by fire. 18. To preserve the rights of patrons to advowsons. 19. To enable infants who are seised or possessed of estates in fee, in trust, or by way of mortgage, to make conveyances of such estates. 20. For the public registering of deeds, conveyances and wills, and other incumbrances which shall be made of, or that may affect any honours, manors, lands, tenements or hereditaments, within the county of Middlesex, after the 29th of September, 1709. 21. For improving the Union of the two kingdoms. 22. For the queen's most gracious, general, and free pardon. 23. For raising the militia for the year 1709, although the month's pay formerly advanced be not repaid. 24. For continuing the former act for the encouragement of coinage, and to encourage the bringing foreign coins, and British or foreign plate, to be coined, and for making provision for the mints in Scotland, and for the prosecuting offences concerning the coin in England. 25. For making perpetual an act for the better preventing the counterfeiting the current coin of this kingdom; as also an act for giving like remedy upon promissory notes, as is used upon bills of exchange, and for the better payment of inland bills of exchange; and also for continuing several acts made in the fourth and fifth years of her majesty's reign, for preventing frauds committed by bankrupts. 26. For appointing commissioners to treat and agree for such lands, tenements and hereditaments, as shall be judged proper to be purchased for the better fortifying Portsmouth, Chatham, and Harwich.

8 *Annæ.* 1. For granting an aid to her majesty, to be raised by a land tax in Great Britain, for the service of the year 1710. 2. To prohibit the exportation of corn, malt, meal, flour, bread, biscuit and starch, and low wines, spirits, worts, and wash drawn from malted corn. 3. For charging and continuing the duties upon malt, mum, cyder and perry, for the service of the year 1710. 4. For continuing part of the duties upon coals, culm and cinders, add granting new duties upon houses having twenty windows or more, to raise the sum of 1,500,000*l.* by way of a lottery, for the service of the year 1710. 5. To continue the act for recruiting her majesty's land-forces and marines, for the service of the year 1710. 6. For employing the manufacturers, by encouraging the consumption of raw silk, and mohair yarn. 7. For granting to her majesty new duties of excise, and upon several imported commodities, and for establishing a yearly fund thereby, and by other ways and means, to raise 900,000*l.* by sale of annuities, and (in default thereof) by another lottery, for the service of the year 1710. 8. For clearing, preserving, and maintaining the harbour of Catwater, lying near Plymouth, in the county of Devon; and for the cleansing and keeping clean the Pool, commonly called Sutton Pool, lying in Plymouth aforesaid. 9. For laying certain duties upon candles, and certain rates upon monies to be given with clerks and apprentices, towards raising her majesty's supply for the service of the year 1710. 10 To continue the act for punishing mutiny and desertion, and for the better payment of the army and quarters. 11. To explain so much of the act for prohibiting the exportation of corn, malt, meal, flour, bread, biscuit and starch, and low wines, spirits, worts, and wash drawn from malted corn; by which act the said commodities are admitted to be carried from the isle of Wight to several markets; and for giving liberty to export certain quantities of oatmeal, for the use of the British hospitals beyond the seas. 12. For making a convenient dock or bason at Liverpool, for the security of all ships trading to and from the said port of Liverpool. 13. For continuing several impositions, additional impositions, and duties upon goods imported, to raise money by way of loan for the service of the year 1710, and for taking off the over-sea duty on coals exported in British bottoms; and for better preventing frauds in drawbacks upon certificate goods; and for ascertaining the duties of corans imported in Venetian ships; and to give further time to foreign merchants for exportation of certain foreign goods imported; and to limit a time for prosecutions upon certain bonds given by merchants; and for continuing certain fees of the officers of the customs; and to prevent imbezzlements by such officers; and for appropriating the monies granted to her majesty; and for replacing monies paid or to be paid for making good any deficiencies on the annuity acts; and for encouragement to raise naval stores in her majesty's plantations; and to give further time for registering debentures, as is therein mentioned. 14. For the better security of rents, and to prevent frauds committed by tenants. 15. For explaining and enlarging an act of the sixth year of her majesty's reign, intitled, An Act for the security of her majesty's person and government. 16. For discharging the attendance of noblemen, barons, and freeholders, upon the lords of justiciary in their circuits, in that part of Great Britain called Scotland; and for abolishing the method of exhibiting criminal informations by the porteous roll. 17. For explaining and making more effectual an act for the better enabling the master, wardens, and assistants of Trinity House, to rebuild the light-house on the Eddystone rock. 18. To regulate the price and assise of bread. 19. For the encouragement of learning, by vesting the copies of printed books in the authors or purchasers of such copies, during the times therein mentioned. 20. For raising the militia for the year 1710, although the month's pay formerly advanced be not repaid. 21. For vesting certain lands, tenements and hereditaments, in trustees, for the better fortifying and securing the harbours and docks at Portsmouth, Chatham, and Harwich.

9 *Annæ.* 1. For granting an aid to her majesty, to be raised by a land tax in Great Britain, for the service of the year 1711. 2. To

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oblige ships coming from places infected, more effectually to perform their quarantine. 3. For charging and continuing the duties upon malt, mum, cyder and perry, for the service of the year 1711. 4. To continue the acts for recruiting her majesty's land forces and marines, for the service of the year 1711. 5. For securing the freedom of parliaments, by the further qualifying the members to sit in the House of Commons. 6. For reviving, continuing, and appropriating certain duties upon several commodities to be exported; and certain duties upon coals to be water-born, and carried coastwise; and for granting further duties upon candles, for thirty-two years, to raise 150,000*l.* by way of a lottery, for the service of the year 1711; and for suppressing such unlawful lotteries, and such insurance offices, as are therein mentioned. 7. For enabling and obliging the Bank of England, for the time therein mentioned, to exchange all Exchequer bills for ready money upon demand; and to disable any person to be governor, deputy governor, or director of the Bank of England, and a director of the East India company at the same time. 8. To repeal the act of the third and fourth year of her majesty's reign, intituled, An Act for prohibiting all trade and commerce with France, so far as it relates to the prohibiting the importation of French wines. 9. To continue the acts for punishing mutiny and desertion, and false musters, and for the better payment of the army and quarters; and for approving of medicines for the army. 10. For establishing a general post-office for all her majesty's dominions, and for settling a weekly sum out of the revenues thereof, for the service of the war, and other her majesty's occasions. 11. For laying certain duties upon hides and skins, tanned, tawed, or dressed, and upon vellum and parchment, for the term of thirty-two years, for prosecuting the war, and other her majesty's most necessary occasions. 12. For laying a duty upon hops. 13. For taking, examining and stating the public accounts of this kingdom. 14. For the better preventing of excessive and deceitful gaming. 15. For making more effectual an act of the forty-third year of the reign of queen Elizabeth, intituled, An Act concerning the assises of fuel, so far as it relates to the assise of billet. 16. To make an attempt on the life of a privy counsellor, in the execution of his office, to be felony without benefit of clergy. 17. For the preservation of white and other pine trees, growing in her majesty's colonies of New Hampshire, the Massachusets Bay, and province of Main, Rhode Island, and Providence Plantation, the Narraganset country or King's Province, and Connecticut, in New England, and New York, and New Jersey in America, for the masting her majesty's navy. 18. To render more effectual an act made in the sixth year of her present majesty, intituled, An Act to repeal a clause in an act of the seventh year of the reign of his late majesty, for amending highways, which enjoins waggoners and others, to draw with a pole between the wheel horses, or with double shafts, and to oblige them to draw only with six horses or other beasts, except up hills. 19. To enable her majesty to grant the site of the castle of Exon, (parcel of her duchy of Cornwall) for ninety-nine years, for the use and benefit of the county of Devon. 20. For rendering the proceedings upon the writs of Mandamus, and informations in the nature of a Quo Warranto, more speedy and effectual; and for the more easy trying and determining the rights of offices and franchises in corporations and boroughs. 21. For making good deficiencies, and satisfying the public debts; and for for erecting a corporation to carry on a trade to the South Seas, and for the encouragement of the fishery; and for liberty to trade in unwrought iron with the subjects of Spain; and to repeal the acts for registering seamen. 22. For granting to her majesty several duties upon coals, for building fifty new churches in and about the cities of London and Westminster, and suburbs thereof, and other purposes therein mentioned. 23. For licensing and regulating hackney coaches and chairs; and for charging certain new duties on stamped vellum, parchment and paper, and on cards and dice, and on the exportation of rock salt for Ireland; and for securing thereby, and by a weekly payment out of the post-office, and by several duties on hides and skins, a yearly fund of 186,070*l.* for thirty-two years, to be applied to the satisfaction of such orders as are therein mentioned, to the contributors of any sum not exceeding 2,000,000*l.*, to be raised for carrying on the war, and other her majesty's occasions. 24. For relief of the creditors and proprietors of the company of mine adventurers, by establishing a method for settling the differences between the company and their creditors, and for uniting them, in order to an effectual working the mines of the said company. 25. For making the act of the fifth year of her majesty's reign, for the better preservation of the game, perpetual, and for making the same more effectual. 26. For the better preservation and improvement of the fishery within the river of Thames, and for regulating and governing the company of fishermen of the said river. 27. For the encouragement of the trade to America. 28. To dissolve the present, and prevent the future combination of coal owners, lightermen, masters of ships and others, to advance the price of coals, in prejudice of the navigation, trade, and manufactures of this kingdom, and for the further encouragement of the coal trade. 29. For raising the militia for the year 1711, although the month's pay formerly advanced be not repaid. 30. For reviving and continuing an act made in the first year of her majesty's reign, for the more effectual preventing abuses and frauds of persons employed in the working up the woollen, linen, fustian, cotton, and iron manufactures of this kingdom.

10 *Annæ.* 1. For granting an aid to her majesty to be raised by a land tax in Great Britain, for the service of the year 1712. 2.

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For preserving the Protestant religion, by better securing the church of England as by law established; and for confirming the toleration granted to Protestant dissenters, by an act intituled, An Act for exempting their majesties Protestant subjects, dissenting from the church of England, from the penalties of certain laws, and for supplying the defects thereof; and for the further securing the Protestant Succession, by requiring the practisers of the law in North Britain to take the oaths, and subscribe the declaration therein mentioned. 3. For charging and continuing the duties upon malt, mum, cyder and perry, for the service of the year 1712, and for applying part of the coinage duties, to pay the deficiency of the value of plate coined, and to pay for the recoining the old money in Scotland. 4. For settling the precedence of the most excellent princess Sophia, electress and duchess dowager of Hanover, of the elector her son, and of the electoral prince the duke of Cambridge. 5. To repeal the act of the seventh year of her majesty's reign, intituled, An Act for naturalizing foreign Protestants, (except what relates to the children of her majesty's natural-born subjects, born out of her majesty's allegiance.) 6. For explaining and altering the laws now in being concerning the assises of fuel, so far as they relate to the assise of billet, made or to be made of beech wood only. 7. To prevent the disturbing those of the episcopal communion in that part of Great Britain called Scotland, in the exercise of their religious worship, and in the use of the liturgy of the church of England; and for repealing the act passed in the parliament of Scotland, intituled, An Act against irregular baptisms and marriages. 8. To continue the act of the last session of parliament, for taking, examining and stating the public accounts of this kingdom, for one year longer. 9. For recruiting her majesty's land forces and marines, for the service of the year 1712. 10. For punishing mutiny and desertion, and false musters, and for the better payment of the army and quarters. 11. For enlarging the time given to the commissioners appointed by her majesty, pursuant to an act for granting to her majesty several duties on coals, for building fifty new churches in and about the cities of London and Westminster, and suburbs thereof, and other purposes therein mentioned; and also for giving the said commissioners farther powers for better effecting the same; and for appointing monies for rebuilding the parish church of St. Mary Woolnoth in the county of London. 12. To restore the patrons to their ancient rights of presenting ministers to churches vacant in that part of Great Britain called Scotland. 13. For repealing part of an act passed in the parliament of Scotland, intituled, Act for discharging the Yule Vacance. 14. For reviving and continuing several acts therein mentioned, for preventing the mischiefs which may happen by fire; for building and repairing county gaols; for exempting apothecaries from serving parish and ward offices, and serving upon juries; and relating to the returning of jurors. 15. For repealing a clause in the statute made in the twenty-first year of the reign of king James the first, intituled, An Act for the further description of a bankrupt, and relief of creditors against such as shall become bankrupts, and for inflicting corporal punishment upon the bankrupts in some special cases, which makes descriptions of bankrupts; and for the explanation of the laws relating to bankruptcy in case of partnership. 16. For regulating, improving, and encouraging the woollen manufacture of mixed or medley broad cloth, and for the better payment of the poor employed therein. 17. For the better collecting and recovering the duties granted for the support of the royal hospital at Greenwich, and for the further benefit thereof; and for the preserving her majesty's harbour moorings. 18. To give further time for enrolling such leases granted from the crown, as have not been enrolled within the respective times therein limited; and for making the pleading of deeds of bargain and sale enrolled, and of fee-farm rents more easy. 19. For laying several duties upon all soap and paper made in Great Britain, or imported into the same; and upon chequered and striped linens imported; and upon certain silks, callicoes, linens and stuffs printed, painted, or stained; and upon several kinds of stamped vellum, parchment and paper; and upon certain printed papers, pamphlets and advertisements; for raising the sum of 1,300,000*l.* by way of lottery towards her majesty's supply; and for licensing an additional number of hackney chairs; and for charging certain stocks of cards and dice; and for better securing her majesty's duties to arise in the office for the stamp duties by licences for marriages, and otherwise; and for relief of persons who have not claimed their lottery tickets in due time, or have lost Exchequer bills, or lottery tickets; and for borrowing money upon stock (part of the capital of the South Sea company) for the use of the public. 20. For the relief of insolvent debtors, by obliging their creditors to accept the utmost satisfaction they are capable to make, and restoring them to their liberty. 21. To prevent abuses in making linen cloth, and regulating the lengths, breadths, and equal sorting of yarn, for each piece made in Scotland, and for whitening the same. 22. For the relief of merchants importing prize goods from America. 23. For the more effectual preventing fraudulent conveyances, in order to multiply votes for electing knights of shires to serve in parliament. 24. For prolonging the term for payment of certain duties granted by an act made in the twelfth and thirteenth years of his late majesty king William, intituled, An Act for recovering, securing, and keeping in repair the harbour of Minehead, for the benefit and support of the navigation and trade of this kingdom. 25. For raising the militia for the year 1712, although the month's pay formerly advanced be not repaid; and for rectifying a mistake in an act

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passed this session of parliament, intituled, An Act for punishing mutiny and desertion, and false musters, and for the better payment of the army and quarters; and for taking accounts of trophy money formerly raised and collected. 26. For laying additional duties on hides and skins, vellum and parchment, and new duties on starch, coffee, tea, drugs, gilt and silver wire, and policies of insurance, to secure a yearly fund for satisfaction of orders to the contributors of a further sum of 1,800,000*l.* towards her majesty's supply; and for the better securing the duties on candles; and for obviating doubts concerning certain payments in Scotland; and for suppressing unlawful lotteries, and other devices of the same kind; and concerning cake soap; and for relief of Mary Ravenall, in relation to an annuity of 18*l.* per annum; and concerning prize cocoa nuts brought from America; and certain tickets which were intended to be subscribed into the stock of the South Sea company; and for appropriating the monies granted in this session of parliament. 27. For making effectual such agreement as shall be made between the royal African company of England, and their creditors. 28. For continuing the trade and corporation capacity of the united East India company, although their fund should be redeemed. 29. For better ascertaining and securing the payments to be made to her majesty for goods and merchandizes to be imported from the East Indies, and other places, within the limits of the charter granted to the East India company. 30. For continuing the trade to the South Seas, granted by an act of the last session of parliament, although the capital stock of the said corporation should be redeemed. 31. For the appointing commissioners to take, examine, and determine the debts due to the army, transport service, and sick and wounded. 32. For enlarging the time for the ministers, advocates, and other members of the college of justice in Scotland, to take the oaths therein mentioned. 33. For appointing the circuit courts in that part of Great Britain called Scotland, to be kept only once in the year. 34. For explaining several clauses in an act passed the last sessions of parliament for the relief of the sufferers of the islands of Nevis and St. Christopher, by reason of the invasion of the French there, in the year 1705.

12 *Annæ*, *Stat.* 1. 1. For granting an aid to her majesty, to be raised by a land tax in Great Britain, for the service of the year 1713. 2. For granting to her majesty duties upon malt, mum, cyder and perry, for the service of the year 1713, and for making forth duplicates of lottery tickets lost, burnt or destroyed; and for enlarging the time for adjusting claims in several lottery acts; and to punish the counterfeiting or forging of lottery orders; and for explaining a late act in relation to stamp-duties on customary estates, which pass by deed and copy. 3. To revive and continue the act for taking, examining and stating the public accounts of the kingdom; and also to continue the act for appointing commissioners to take, examine and determine the debts due to the army, transport-service, and sick and wounded. 4. For making inclosures of some part of the common grounds, in the West Riding of the county of York, for the endowing poor vicarages and chapelries, for better support of their ministers. 5. To explain a clause in an act of the last session of parliament, intituled, An Act for the more effectual preventing fraudulent conveyances, in order to multiply votes for electing knights of shires to serve in parliament, as far as the same relates to the ascertaining the value of freehold of 40*s.* per annum. 6. For the better regulating the elections of members to serve in parliament for that part of Great Britain called Scotland. 7. For the more effectual preventing and punishing robberies that shall be committed in houses. 8. For raising the militia for the year 1713, although the month's pay formerly advanced be not repaid. 9. For continuing an act made in the third and fourth years of the reign of her present majesty, intituled, An Act for encouraging the importation of naval stores from her majesty's plantations in America; and for encouraging the importation of naval stores from that part of Great Britain called Scotland, to that part of Great Britain called England. 10. For continuing the acts therein mentioned, for preventing theft and rapine upon the northern borders of England. 11. To raise 1,200,000*l.* for public uses, by circulating a further sum in Exchequer bills; and for enabling her majesty to raise 500,000*l.* on the revenues appointed for uses of her civil government, to be applied for or towards payment of such debts and arrears owing to her servants, tradesmen and others, as are therein mentioned. 12. For the better regulating the forces to be continued in her majesty's service; and for the payment of the said forces, and of their quarters. 13. To enable such officers and soldiers as have been in her majesty's service during the late war, to exercise trades, and for officers to account with their soldiers. 14. For explaining the acts for licensing hackney-chairs. 15. For making perpetual an act made in the seventh year of the reign of the late king William, intituled, An Act to prevent false and double returns of members to serve in parliament. 16. For the better encouragement of the making sail-cloth in Great Britain. 17. To vest in the commissioners for building fifty new churches in and about London and Westminster, and suburbs thereof, as much of the street near the Maypole in the Strand, in the county of Middlesex, as shall be sufficient to build one of the said churches upon; and for restoring to the principal and scholars of King's Hall, and college of Brazen Nose, in the university of Oxon, their right of presentation to the churches and chapels in Stepney parish. 18. For making perpetual the act made in the thirteenth and fourteenth years of the reign of the late king Charles 2, intituled, An Act for the better relief of the poor of this kingdom: And that persons bound ap-

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prentices to, or being hired servants with persons coming with certificates, shall not gain settlements by such services or apprenticeships: And for making perpetual the act made in the sixth year of her present majesty's reign, intituled, An Act for the importation of cochineal from any ports in Spain during the present war, and six months longer: And for reviving a clause in an act made in the ninth and tenth years of the reign of the late king William, intituled, An Act for settling the trade to Africa, for allowing foreign copper bars imported, to be exported.

12 *Annæ, Stat.* 2. 1. For granting an aid to her majesty, to be raised by a land tax in Great Britain, for the service of the year 1714. 2. For allowing a drawback upon the exportation of salt to be made use of for the curing of fish taken at North Seas, or at Island. 3. For charging and continuing the duties upon malt, mum, cyder and perry, for the service of the year 1714, and for the encouragement of the distilling brandy from malted corn and cyder; and for making forth duplicates of Exchequer bills, and lottery tickets, lost, burnt, or destroyed; and to enable the governor and company of the Bank of England, and others, to lend money upon South Sea stock. 4. For the better regulating the forces to be continued in her majesty's service, and for the payment of the said forces, and of their quarters. 5. For taking away the new additional duty of 30*l.* per cent. ad valorem, imposed upon all books and prints imported into Great Britain, by an act made in the tenth year of the reign of her present majesty queen Anne. 6. For taking away mortuaries within the dioceses of Bangor, Landaff, St. David's and St. Asaph, and giving a recompence therefore to the bishops of the said respective dioceses; and for confirming several letters patents granted by her majesty for perpetually annexing a prebend of Gloucester, to the mastership of Pembroke college in Oxford; and a prebend of Rochester to the provostship of Oriel college in Oxford; and a prebend of Norwich to the mastership of Catherine-hall in Cambridge. 7. To prevent the growth of schism, and for the further security of the churches of England and Ireland, as by law established. 8. For encouraging the tobacco-trade. 9. For laying additional duties on soap and paper, and upon certain linens, silks, callicoes and stuffs, and upon starch and exported coals, and upon stamped vellum, parchment and paper, and for raising 1,400,000*l.* by way of a lottery for her majesty's supply; and for allowances on exporting made wares of leather, sheep-skins and lamb-skins; and for distribution of 4,000*l.* due to the officers and seamen for gun-money; and to adjust the property of tickets in former lotteries; and touching certain shares of stock in the capital of the South Sea company; and for appropriating the monies granted to her majesty. 10. For raising the militia for the year 1714, although the month's pay formerly advanced be not repaid; and for rectifying a mistake in an act passed in this present session of parliament, intituled, An Act for regulating the forces to be continued in her majesty's service, and for payment of the said forces and their quarters. 11. To prevent the listing her majesty's subjects to serve as soldiers, without her majesty's licence. 12. For the better maintenance of the curates within the church of England, and for preventing any ecclesiastical persons from buying the next avoidance of any church-preferment. 13. To discharge and acquit the commissioners of equivalent for the sum of 381,509*l.* 15*s.* 10*d.* $\frac{1}{2}$, by them duly issued out of the sum of 398,085*l.* 10*s.*, which they received. 14. For rendering more effectual an act made in the third year of the reign of king James 1, intituled, An Act to prevent and avoid dangers which may grow by Popish recusants; and also one other act made in the first year of the reign of their late majesties king William and queen Mary, intituled, An Act to vest in the two Universities the presentations of benefices belonging to Papists; and for vesting in the lords of justiciary power to inflict the same punishments against Jesuits, Priests, and other trafficking Papists, which the privy council of Scotland was empowered to do by an act passed in the parliament of Scotland, intituled, An Act for preventing the growth of Popery. 15. For providing a public reward for such person or persons as shall discover the longitude at sea. 16. To reduce the rate of interest, without any prejudice to parliamentary securities. 17. For the speedy and effectual preserving the navigation of the river of Thames, by stopping the breach in the levels of Havering and Dagenham in the county of Essex; and for ascertaining the coal-measure. 18. For the preserving all ships and goods thereof, which shall happen to be forced on shore, or stranded upon the coasts of this kingdom, or any other of her majesty's dominions. 19. To explain a clause in an act of parliament of the tenth year of her majesty's reign, for laying several duties upon all soap and paper made in Great Britain, or imported into the same; and upon chequered and striped linens imported, and upon certain silks, callicoes, linens and stuffs, printed, painted or stained; and upon several kinds of stampt vellum, parchment and paper; and upon certain printed pamphlets and advertisements, for raising the sum of 1,800,000*l.* by way of a lottery, and for other purposes in the said act mentioned; so far as the said act relates to lawns, canvas, buckrams, barras, and Silesia neckcloths. 20. To explain and make more effectual an act passed in the tenth year of her majesty's reign, for preventing abuses in making linen cloth, and regulating the lengths and breadths, and equal sorting of yarn in each piece made in Scotland, and for whitening the same. 21. To explain part of an act made in the seventh year of her majesty's reign, (for enlarging the capital stock of the Bank of England, and for raising a further supply to her majesty, for the service of the year 1709,) so far as the same relates to unwrought incle, imported into this kingdom.

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22. To continue an act of the sixth year of her majesty's reign, intituled, An Act to enable her majesty to make leases and copies of offices, lands and hereditaments, parcel of her duchy of Cornwall, or annexed to the same.
23. For reducing the laws relating to rogues, vagabonds, sturdy beggars and vagrants, into one act of parliament; and for the more effectual punishing such rogues, vagabonds, sturdy beggars and vagrants, and sending them whither they ought to be sent.

N° IV.

The Lord Treasurer Oxford's Letter to the Queen, June 9, 1714. [See p. 1365.]

May it please your majesty;

I presume, in obedience to your royal command, to lay before your majesty a state of your affairs. Though I have very much contracted it from the draught I made, and the vouchers from whence it is taken, yet I find it swell under my pen in transcribing, being willing to put every thing before your majesty in the clearest light my poor understanding can attain to. It was necessary to lay it before your majesty in the series of time, from the beginning to this present time; and when that is compleatly laid before you, it remains only for me to beg God to direct your majesty.—And as to myself, do with me what you please; place me either as a figure, or a cypher; displace me, or replace me, as that best serves your majesty's occasions, you shall ever find me, with the utmost devotion, and without any reserve, Madam, Your most dutiful, most faithful, most humble, most obedient subject, and unworthy servant, Oxford.

A brief Account of Public Affairs, since August 8, 1710, to this present 8th of June, 1714. To which is added, the State of Affairs abroad, as they relate to this Kingdom; with some humble Proposals for securing the future Tranquillity of her Majesty's Reign, and the safety of her Kingdoms.

Her majesty, on the 8th of August 1710, was pleased to alter her treasury, and two days after in a new commission, Robert Harley, by her majesty's great favour, was made chancellor of the exchequer.

The state of affairs at home and abroad are fresh in every one's memory.

The condition of the treasury at that time was laid before her majesty in a large representation.

I beg leave to touch some few heads: the army was in the field, no money in the treasury; none of the remitters would contract again; the bank had refused to lend 100,000*l.* to lord Godolphin, on very good security: the navy and other branches of service, eleven millions in debt, which enhanced the price of every thing proportionably; the civil list in debt about 600,000*l.*; and the yearly income too little for the current certain expence, by the lowest computation, 124,495*l.* 2*s.* 4*d.*

In a few days this new commission made provision for paying the army, by the greatest remittance that had ever been known: though the opposition from every office, which was full of persons who were enemies to the change made by the queen, was very strong, and very troublesome and vexatious: and such was the situation of affairs, that nothing but great patience could ever have overcome these difficulties; it being impossible, as well as unavoidable; to make removes, but by degrees.

As soon as it was possible (and notwithstanding the clamours then raised, it was the only proper time) a new parliament is called.

Its first meeting was November 27, 1710. Robert Harley had prepared the funds ready (before the parliament met, as he had done every session to this day) not only for the current service of the year, both by sea and land, but also for easing the nation of above nine millions of debt. This was thought so chimerical, when Robert Harley did begin to open it, that it was treated with ridicule, until he shewed how practicable it was. It is true, this gave great reputation abroad, and enabled to treat advantageously of a peace. It raised sinking credit at home; but, at the same time, as it drew envy upon Harley from some, and the rage of others, so it gave offence to some of his fellow servants, who told him plainly, that he ought to have told his secret, and if he would not get money himself, he ought to have let his friends share 100,000*l.* which would not have been felt, or found out, in so vast a sum as 9 or 10 millions.

To this principle was owing the setting on foot at this time the unhappy voyage to Canada; to all which meetings Harley avoided coming, and gave lord Rochester his reasons; and after he desired his lordship to be a means to the queen, to hinder that expedition, but it happened to be too late. But lady Masham knows how much Harley was concerned at

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it, though he did not know the true spring of that voyage, which will appear after in this paper.

The beginning of February 1710-11, there began to be a division among those called Tories in the House, and Mr. Secretary St. John thought it convenient to be listing a separate party for himself.

To prevent this, lord Rochester and Harley desired to have a meeting, and to cool such rash attempts; and it was contrived Mr. Secretary St. John should invite us to dinner (which was the last time he ever invited Robert Harley, being now about three years) where was the duke of Shrewsbury, earl Poulet, lord Rochester, and others; and lord Rochester took the pains to calm the spirit of division and ambition.

Harley was at this time seized by a violent fever; and on his first coming abroad March 8, met with a misfortune which confined him many weeks. The transactions during that time, are too public, as well as too black for Harley to remember or to mention.

In the end of May, 1711, the queen, out of her abounded goodness, was pleased to confer undeserved honours on Robert Harley; and on the 29th of the same month, was pleased to put the Treasurer's staff into his hands: a post so much above Harley's abilities to struggle with, that he had nothing but integrity and duty to recommend him to her majesty's choice: so he must have recourse to her majesty's transcendent goodness and mercy to pardon all his faults and failings both of omission and commission, during the whole course of his service.

But to return and resume the thread of this discourse. The 4th of June 1711, three days after the Treasurer was sworn, he was surprised with a demand of 28,036*l.* 5*s.* for arms and merchandize, said to be sent to Canada. When the Treasurer scrupled this, Mr. Secretary St. John and Mr. Moore came to him with much passion upon this affair; and, about a fortnight after, the Secretary of State signified the queen's positive pleasure to have that money paid: and accordingly her majesty signed a warrant, June 21, and the Treasurer not being able then, with all his precaution, to discover further light, the money was paid July 4th, 1711.

Since the return from that expedition, the secret is discovered and the Treasurer's suspicion justified: for the public was cheated of above 20,000*l.*

There is reason to be more particular upon this head, because it is one of the things never to be forgiven the Treasurer; and Lord-Chancellor told him more to that purpose, that they told him no government was worth serving, that would not let them make those advantages, and get such jobs.

One thing more is craved leave to be added, that the Treasurer was forced to use all his skill and credit to keep the House of Commons from examining this affair last parliament.

June the 12th, 1712, the first session of last parliament ended.

From this time, to the beginning of the next session, 'The Treasurer's hands were full of negociating the peace in all courts abroad;' and besides the ordinary and necessary duty of his office at home, he had frequent occasions of calming the quarrels and grudges Mr. Secretary had sometimes against lord Dartmouth, sometimes against lady Masham, and sometimes against the treasurer himself.

The second session of the last parliament began December the 7th, 1711.

This was attended with great difficulties and dangers, as well from the practices of the discontented here, as the designs carried on by Mr. Boys, prince Eugene, and Bothmer; in which designs concurred the emperor and other states and princes who gained by the war.

This put her majesty under a sort of necessity to preserve the whole, and to take a method which had been used, to create some new peers.

So many having been brought formerly out of the House of Commons, of those who used to manage public affairs, it was proposed to Mr. Secretary, that if he would be contented to stay in the House of Commons that sessions, her majesty would have the goodness to create him a peer, and that he should not lose his rank.

The second session ended the 21st of June, 1712, and notwithstanding Bothmer's Memorial, and all other attacks both from abroad and at home, supplies were provided, and every thing relating to the public put upon a good foot, and the malecontents began to despair, as appeared by the duke of Marlborough's retiring abroad, and other particulars.

After the session was ended, the queen, as she had promised, ordered a warrant for Mr. secretary St. John, to be a viscount: this happened to put him in the utmost rage against the Treasurer, lady Masham, and without sparing the greatest.

It did avail very little to tell him how much he had got in place; for had he been created with the other lords it would have fallen to his share to have come next after lord Trevor: but the Treasurer, with great patience, bore all the storm, of which lord Masham was often a witness of the outrageous speeches; and Mr. Moore very lately told the Treasurer, that lord Bolingbroke said very lately to him, that he owed him a revenge upon that head.

This discontent continued, until there happened an opportunity of sending him to France; of which there was not much occasion: but it was hoped, that this would have put him in good humour; which it did, until in October 1712, there were knights of the garter made. This created a new disturbance, which is too well remembered, and breaks out now very often in outrageous expressions publicly against all then made.

In November, on the death of duke Hamilton, he was much against duke Shrewsbury's going, for reasons very plain, which then were in negociation; for before the last session of that parliament began, a new model was framed, or a scheme of ministry; which how they after-

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wards came to fall out will appear in its due place.

The third and last session began April the 9th 1713; which was as soon as the peace was concluded and could be proclaimed.

It is not decent to take notice "That during this whole negociation, the Treasurer was obliged by his own hand, and his own charge, to correspond in all the courts concerned in the negociation; and very often he had the good luck to set right several mistakes, and to obtain some things very little expected: but the only merit of this belongs to her majesty, the credit of whose favour brought it about, and gave power to the Treasurer to act with success."

During this session, the lords of the cabinet, and others, met every Saturday at the Treasurer's in order to carry on the queen's business, as they had done the year before on Thursdays. Many offers were made, and repeated by the Treasurer in order to attack former offenders, and quiet the minds of the gentlemen, and of the church-party; and the only reason for this failing was, because of the project laid for their new scheme, and putting themselves at the head, as they called it, of the church-party.

This being the last session of parliament, and some gentlemen fearing their elections, and some for other reasons, dropt the bill of Commerce.

The Treasurer saw this opportunity, and immediately took it, and prevailed with sir Thomas Hanmer, and others, to come into the payment of the civil list debts, incurred before the change of the treasury, though the present Treasurer was railed at, and maligned; which he chose to bear patiently, rather than own the true reason, that there was no money to do it with, which would have ruined all at once.

This step of paying the debts, put the male-contented into the utmost rage, which they did very publicly express in both houses.

This last session of that parliament, and the third since the change of the ministry, ended July the 16th, 1713.

The peace with France being over, and it growing necessary to put her majesty's affairs into a further settled regulation, and to ease the Treasurer of the burthen as well as envy, of such a bulk of business: her majesty was pleased to approve of the scheme of the duke of Ormond's staying here to attend the army-affairs, which was necessary at the time of disbanding; duke Shrewsbury to go to Ireland, upon his return from France; lord Findlater to be chancellor of Scotland; lord Mar third secretary; lord Dartmouth privy-seal, and Mr. Bromley secretary of state, and sir William Wyndham chancellor of the Exchequer. I am sure the queen very well remembers the rage this caused, as perfectly defeating their scheme, and shewing that her majesty would put her affairs upon a solid foot: the lord-chancellor said it was against law, and to this day will not treat lord Findlater with decency; and lord Mar has met with many ill treatments, as well as Mr. Secretary Bromley.

But that the Treasurer might leave them without excuse, and make her majesty's affairs, if possible, easy with and to those in her service: as soon as he was recovered enough to write, he wrote a large letter to lord Bolingbroke, containing his scheme of the queen's affairs, and what was necessary for lord Bolingbroke to do, as belonging only to his province. This letter was dated July the 25th, 1713, and was answered July the 27th, by lord Bolingbroke; the copy was shown to lady Masham, who came to visit the Treasurer then confined to his chamber; and she then thought it a very good one, and what was proper for the occasion. I believe the whole would be of use to give light to her majesty into the ground and foundation of the follies and madness which have since appeared; the whole is ready for her majesty's perusal when she pleases.

In this letter the Treasurer gives an account to lord Bolingbroke of the occasions, or rather the pretences for giving disturbance to the queen's servants. He proposes the remedy, and what was requisite to be done by him as secretary in his own province, and also assurance of the Treasurer's assistance to the utmost, and of his desire to consult with him (lord Bolingbroke) how to unite the rest of our friends.

Being then sick, the Treasurer took the liberty to put lord Bolingbroke in mind of the several particulars which then required dispatch, and were solely belonging to his province, without any other interposition than that of taking your majesty's direction.

Amongst others, that of a circular letter upon the address of both houses, relating to the Pretender.

This was not done in three months. His lordship wrote word it was done July the 27th.

In the same letter the Treasurer proposed, that (according to the treaty of peace) care should be taken of the following particulars, viz. Newfoundland, Hudson's-Bay, Acadia, St. Christopher's, Assiento, and other things contained in the treaties of commerce.

These particulars the Treasurer thought to have been executed, until within a few weeks he heard the contrary by accident, and that the time in the several treaties was elapsed. Upon this, the Treasurer on Wednesday, June the 2d, told Mr. Moor of this, that every body would be liable to blame who are in the queen's service. Thursday, June the 3d, 1714, lord Bolingbroke writes to the Treasurer a letter, which begins thus:

'Mr. Moor has been this morning with me, 'and has put into my hands a paper, which he 'calls, I think not improperly, a charge upon 'me.'

This paper contains the neglect above-mentioned in the Treasurer's letter of July the 25th, 1713, and yet those faults are now charged upon the Treasurer.

END OF VOL. VI.

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